



## **Town of Arlington Board of Selectmen**

### **Meeting Agenda**

March 21, 2016

7:15 PM

Selectmen's Chambers, 2nd Floor, Town Hall

#### **FOR APPROVAL**

1. Farmers' Market 2016  
Patsy Kraemer, Market Manager

#### **CONSENT AGENDA**

2. Minutes of Meeting: February 22, 2016
3. Request: One Day Beer & Wine License, 4/9/16 @ Arlington Center for the Arts Theatre, 41 Foster Street for Blues Apocalypse 2.0  
Carol Band, Arlington Center for the Arts

#### **APPOINTMENTS**

4. Introduction: Newly Appointed Open Space Committee Member  
Kelsey Cowen (term to expire 6/30/2019)

#### **LICENSES & PERMITS**

5. Request: Common Victualler and Wine & Malt License  
Mashed, LLC, d/b/a OTTO, 202 Massachusetts Avenue  
Anthony W. Allen & Michael P. Keon, Co-owners

#### **TRAFFIC RULES & ORDERS / OTHER BUSINESS**

6. Arlington Commission on Arts and Culture 2015 Annual Report  
Barbara Costa and Stephanie Marlin-Curiel, ACAC Co-Chairs
7. For Approval: Center Safe Travel Project - Request for Use of Parking Spaces  
Adam Chapdelaine, Town Manager
8. For Approval: Authorization to Draft RFP for Sale of 1207 Mass Ave  
Adam Chapdelaine, Town Manager
9. For Approval: Medical Marijuana Dispensary Community Benefit Agreement  
Adam Chapdelaine, Town Manager  
Douglas Heim, Town Counsel
10. Discussion: Proposition 2.5 Override and Debt Exclusion

Daniel J. Dunn, Selectman

11. Rehearing of Warrant Article 24: Bylaw Amendment/Camping on Public Property

Douglas W. Heim, Town Counsel

### **WARRANT ARTICLE HEARINGS**

Articles for Review:

Article 22: Bylaw Amendment/Tree Preservation Bylaw

Article 30: Transfer of Town Property/1 Gilboa Road

Article 33: Revolving Funds

Article 59: Resolution/Handicap Parking Spaces

### **FINAL VOTES & COMMENTS**

Articles for Review:

Article 21: Bylaw Amendment/Arlington Commission on Arts and Culture Membership

Article 23: Bylaw Amendment/Electronic Distribution of Notices and Materials

Article 60: Resolution/Return of Precinct 17 to Highland Fire Station

### **CORRESPONDENCE RECEIVED**

Request 'No Parking Here to Corner' Sign at Intersection of Massachusetts Avenue and Willow Court

Willow Court Resident

FY2016 CDBG Allocation

Harriet Tregoning, US Department of Housing and Urban Development

Minuteman Regional School Committee Vote re: Section 16(d) of Chapter 71

David C. Horton, Secretary, Minuteman District School Committee

### **NEW BUSINESS**

### **EXECUTIVE SESSION**

To review and approve executive session minutes for February 4, 2016, and February 10, 2016 meetings of the Board of Selectmen, and to release such prior executive session minutes pursuant to M.G.L. c.30A, Section 22(f) as appropriate.

Next Scheduled Meeting of BoS April 4, 2016.



## Town of Arlington, Massachusetts

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### Farmers' Market 2016

#### Summary:

Patsy Kraemer, Market Manager

#### ATTACHMENTS:

Type	File Name	Description
▢ Reference Material	Farmers__Market_request.doc	Request from Farmers' Market Manager



**1 March 2016**

**MEMORANDUM TO THE BOARD OF SELECTMEN**

**2016 FARMERS' MARKET**

**The Arlington Farmers' Market respectfully requests permission to hold the Arlington nineteenth Farmers' Market at the Russell Common Parking Lot, Arlington Center, for the 2016 season. The market is held on Wednesday's 2:00 pm to 6:30 pm.. The Market will begin on Wednesday, June 8, 2016, and close on Wednesday, October 26, 2016.**

**The Arlington Farmers' Market is managed by Patsy Kraemer, assisted and advised by a steering committee, which includes:**

**Patsy Kraemer, Market Manager  
Oakes Plimpton, retired Market Manager  
Bob Sargent, prepared foods vendor  
Alan Nicewisch, farmer  
Betsy Block, consumer  
Leon Cantor, Seconds Market  
Vicki Rose, Seconds Market  
Robin Cohen, Webmaster**

**The Farmers Market will continue to work with representatives from Menotomy Manor to provide residents with the seconds market and also with Food for Free for delivery to safe houses, shelters, and elder residences. Historically the farmers have been very generous in donating surplus produce for this market.**

**The market will continue to have liability insurance that is provided from the Massachusetts Farmers' Market Association.**

**We will have 24 vendors at the market this year, including two wine vendors, eleven farms, one fishmonger, a smoked fish vendor, two bakeries, four prepared food suppliers, and one knife sharpener.**

**The parking pass program has been implemented for the past two years. It was very successful and quite well-received by the customers. We sold approximately 60 parking passes. We would like to continue that parking pass program this year.**

**We look forward to continuing this very popular program for the residents of Arlington. The market provides a place for citizens to purchase fresh, locally grown, top quality produce, also to purchase homemade, fresh food products, to learn about the health of fresh produce, and to enjoy the camaraderie of meeting friends and neighbors at this community gathering spot.**

**We hope you will approve the continuation of this program at the Russell Common Parking Lot.**

**Patsy Kraemer  
Market Manager  
85 Columbia Road, Arlington, Ma. 02474  
h: 781-646-4645 c: 781-858-8629**



## **Town of Arlington, Massachusetts**

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### **Minutes of Meeting: February 22, 2016**

#### **ATTACHMENTS:**

Type	File Name	Description
▣ Reference Material	2.22.16_draft_minutes.docx	Draft Minutes 2.22.16

Town of Arlington  
Board of Selectmen

Meeting Minutes

Monday, February 22, 2016  
7:15 PM

Present: Mr. Greeley, Chair, Mr. Dunn, Mr. Curro, Jr., and Mr. Byrne

Absent: Mrs. Mahon, Vice Chair

Also Present : Mr. Chapdelaine and Mrs. Krepelka

Absent: Town Counsel Heim

PROCLAMATIONS

1. Proclamation: White Ribbon Day

Mr. Curro introduced Peter Koutoujian, Sheriff of Middlesex County, who spoke regarding the impacts of domestic violence. Chairman Greeley read the Proclamation and proclaimed March 3, 2016 as WHITE RIBBON DAY in the Town of Arlington and encouraged all residents to pay fitting observance to WHITE RIBBON DAY.

CONSENT AGENDA

2. Reappointments: Cyrus Dallin Art Museum, Board of Trustees

Sarah Burks

Aimee Taberner

(terms to expire 1/31/2019)

Mr. Byrne moved approval.

SO VOTED (4-0)

3. Appointments of New Election Workers: (1) Susan Bernhard, 30 Eustis Street, D, Pct. 18; (2) Anthony Chella, 151 Mystic Street, U, Pct. 1; (3) Carol Curcio, 7 Newport Street, D, Pct. 21; (4) Carole DeVito, 42 Columbia Road, D, Pct. 21; (5) Alice Ronchetti, 33

Magnolia Street, U, Pct. 1

Mr. Byrne moved approval.

SO VOTED (4-0)

PUBLIC HEARINGS

4. 7:15 p.m. CDBG - Performance Update for Program Year 2015-2016

Jennifer Raitt, Director, Planning & Community Development

Mr. Kevin Flood spoke regarding the Jobs, Jobs, Jobs request for the Arlington Boys & Girls Club and stated he appreciates everything the Town does for the Club. This year he is asking for \$16,000.

Janet Maguire and Peggy Regan, Directors of Menotomy Manor O.S. Homework Support Program, asked the Board for their continued support. This year they are asking again for \$6,000. They also appreciate everything the Board does for the program.

Ms. Lisa Urben, Youth Program Director, Menotomy Manor Outreach Program - Fidelity House

stated she is asking for \$16,000 and is appreciative of everything the Town does for the program.

Mr. Byrne and Mr. Dunn are the Co-Chairpersons of the Committee again this year and will be meeting soon regarding all requests.

5. 7:15 p.m. Vote: CDBG Requests for FY2016-2017 Funding

Jennifer Raitt, Director, Planning & Community Development

Ms. Raitt appeared before the Board and stated the FY2017 grand total of requests are \$1,495,633. The request for FY2016 was \$1,545,159 and the FY2016 allocation was \$1,073,348.

Mr. Byrne moved receipt of report.

SO VOTED (4-0)

#### APPOINTMENTS

6. Board of Library Trustees

Amy Hampe

(term to expire 1/31/2019)

Mr. Byrne moved approval.

SO VOTED (4-0)

7. Commission on Disabilities

Liza Molina

(term to expire 6/30/2017)

Mr. Dunn moved approval.

SO VOTED (4-0)

8. Cyrus Dallin Art Museum, Board of Trustees

Ann-Marie Delaunay-Danizio

(term to expire 2/28/2019)

Mr. Byrne moved approval.

SO VOTED (4-0)

Meghan McDavid

(term to expire 2/28/2019)

Mr. Curro moved approval.

SO VOTED (4-0)

#### LICENSES & PERMITS

9. Request: Sidewalk Fixture Permit

Bierbrier Development, 1398 Massachusetts Ave., Tom Godfrey

The Board thanked Tom Godfrey, representing Bierbrier Development for installing said planters. They feel it will be an opportunity to beautify the area.

Mr. Dunn moved approval subject to all conditions as set forth.

SO VOTED (4-0)

#### TRAFFIC RULES & ORDERS / OTHER BUSINESS

10. Discussion and Approval: Lake Street Recommendations

Jeffrey Maxtutis, TAC Co-Chair

Howard Muisse, TAC Co-Chair

At the Selectmen's meeting on February 5, 2015, the Board asked TAC to conduct a field test

to confirm the benefit of the installation of a new traffic, pedestrian and bicycle signal at the intersection of Lake Street and the Bikeway. The study found that Lake Street experiences up to 1,200 vehicles during the weekday evening peak hours, between 4:45 p.m. and 5:45 p.m. There are nearly 400 users on the bikeway that cross Lake Street during this same timeframe, or approximately six people per minute. Vehicle travel times on Lake Street between Route 2 and Mass. Avenue during the weekday PM peak period were about 4 minutes faster on average with police officer control. There were 14 crashes at the intersection between January 1, 2014 and December 31, 2015. Two of the crashes involved pedestrians, five crashes resulted in personal injury and seven crashes involved property damage only. The most common type of crash at the Bikeway was rear end collisions. TAC Co-Chair Jeff Maxtutis stated that this was the largest data collection conducted by the TAC.

Selectmen Dunn, a frequent bicycle commuter, was impressed by the data presented. He stated he is now more convinced by the data and personal experiences to make him further support a light.

Phil Goff, Co-Chair of the East Arlington Livable Streets Coalition, stated his group's concerns about the unintended consequences adding this light could cause. He said that cars are accustomed to slowing down and stopping in this area, meaning that it is rare for a car to pass through the path at more than 10 to 15 miles per hour. He feels that a signal would cause motorists to drive at a higher speed when they saw a green light. Mr. Goff said there is a speed issue with bicycles. Many go through the stop sign, but generally they slow down no matter what. With a signal, he expected that people will either stop for the red light or remain at speed through a green light at nearly 15 miles per hour. His worries stem from the potential for accidents these higher speeds could cause. Mr. Goff stated maybe we need tweaks to the Brooks Avenue signal or new signage at the bike path.

Alan Linov, 19 Colonial Drive, spoke regarding his concerns re the effect it would have on his neighborhood (Kelwyn Manor) and feels a design committee should address the matter.

Scott Smith, 39 Amherst Street, a member of ABAC is not convinced with the study.

Mr. Greeley sees the only negative to adding traffic lights to this intersection is that people who never used Lake Street before will start using it now. He can't see that four minutes would change that much.

Mr. Byrne moved to form a design review committee that would evaluate the issues and constraints of the intersection while deciding on the proper solution and report back to the Board. The Committee would combine many of Arlington's transportation focused parties to reach a decision.

SO VOTED (4-0)

#### 11. Request for Statement of Support/Non-Opposition - Medical Marijuana Dispensary Massachusetts Patient Foundation

Representatives of the Massachusetts Patient Foundation appeared before the Board requesting a letter of support or non-opposition as they attempt to open a dispensary in Town. In order for a dispensary to open in Arlington, the Selectmen first have to issue a letter stating the Board's decision to approve or not oppose the business. Following this letter, final approval must come from the Massachusetts Department of Health. The dispensary would also need final approval from the Town Manager before opening. The Community Benefit Agreement negotiated between the dispensary and the Town says the dispensary would pay 3 percent of its gross revenue to the Town. Mr. Chapdelaine stated that the payments would offset the costs of policing and regulating the facility. Mr. Curro, who initially opposed the dispensary at the

Foundation's previous presentation in October, relented after seeing the agreement put forward. Mr. Greeley said he had recently been approached by another medical marijuana dispensary considering Arlington. Selectman Byrne stated he saw a medical benefit that this could provide for Arlington. He thinks there is space for this in the pain management spectrum while detailing Arlington's ongoing opioid epidemic.

Mr. Byrne moved approval for a statement of non-opposition of a medical marijuana dispensary.  
SO VOTED (4-0)

12. Net Metering Letter to Legislature  
Ryan Katofsky, Sustainable Arlington

Mr. Katofsky asked the Board to send a letter to Senate President Rosenberg and House Speaker DeLeo regarding continuing strong support for solar energy in Massachusetts.

Mr. Byrne moved approval.  
SO VOTED (3-1)  
Mr. Dunn voted in the negative.

13. Community Compact - Endorsement of Best Practices  
Adam W. Chapdelaine, Town Manager

Mr. Chapdelaine requested the endorsement of two best practices that he is recommending the Town pursue via the Commonwealth's Community Compact Program (CCP). The two best practices that Mr. Chapdelaine recommended are as follows:

1. Adoption of a Complete Streets Policy - including adoption of such a policy in the Community Compact application will allow the Town to earn bonus points on the current Complete Streets grant application.
- 2 Performance of an IT System Vulnerability Assessment- Mr. Chapdelaine stated that after speaking with David Good and staff from MassIT, he feels that this is a worthwhile pursuit to aid in increasing our cyber security on Town networks.

Mr. Byrne moved approval.  
SO VOTED (4-0)

14. Vote: Sponsorship of "Unconscious Bias" and "Stereotypes"  
Mary Harrison, Vision 2020 Diversity Task Group

David Landskov, member of Vision 2020, Sustainable Arlington, appeared before the Board in place of Ms. Harrison. Mr. Landskov asked the Board to support two major events that the Vision 2020 Diversity Task Group is presenting:

- a. "Unconscious Bias" is a presentation followed by a question and answer period on Thursday, April 7 in Town Hall, 7:30 to 9:00 p.m.
- b. Arlington Center for the Arts will present "Stereotypes: A Conscious Look at Race, Faith, Gender and Orientation" photography exhibit at ACA. The show will be in their Gibbs Gallery from March 7 - April 15, with a reception on March 31.

Mr. Landskov stated the Committee would like to have the Board as one of their co-sponsors of the events.

Mr. Curro moved approval.  
SO VOTED (4-0)

15. Vote to Adopt: Suburban Coalition Resolution re the Foundation Budget Review Commission

Paul Schlichtman, Chair, Arlington School Committee  
Mr. Schlichtman, Chair, Arlington School Committee, stated that on February 12th the School Committee voted to adopt the Suburban Coalition Resolution pertaining to adopting the Foundation Budget Review Commission. At that time, the School Committee asked that the Board of Selectmen and the Finance Committee join them in adopting said resolution. Mr. Chapdelaine stated that the MMA fully supports this Resolution.  
Mr. Curro moved approval of adopting the Resolution. SO VOTED (4-0)

16. Vote: Minuteman Building Project Assessment Task Force  
Daniel J. Dunn, Selectman

Mr. Dunn said that on March 1st we will know whether or not the new Minuteman Regional Agreement has been approved. If the regional agreement is approved, we will need to carefully evaluate the building project being proposed by Minuteman. Mr. Dunn stated this is an unusual approval process and it's not one that we as a Town have any recent experience with. Every other building project in Town comes from one of two places: the School Department or the Town Manager. When these projects happen, we have an established process of advocacy and evaluation. We don't have such a process for projects like Minuteman. Mr. Dunn is proposing that the Board of Selectmen create a Minuteman Building Project Assessment Task Force at our next meeting.

Proposed membership:

Selectman Dan Dunn

Selectman Joe Curro

Finance Committee Chair Al Tosti

Finance Committee's Minuteman Sub-Committee Member Stephen DeCoursey

Capital Planning Committee Chair Charlie Foskett

Minuteman School Committee member Sue Sheffler

Minuteman School Building Committee Member Nawwaf Kaba

Arlington Public School Superintendent Kathie Bodie (or designee)

Minuteman Superintendent Ed Bouquillion (or designee)

Mr. Curro suggested Paul Schlichtman, Chair of School Committee

Mr. Greeley and Mr. Byrne feel that Town Manager Chapdelaine and Deputy Town Manager Pooler should be considered.

Mr. Byrne moved approval to add to agenda on March 7th with additional members being appointed. SO VOTED (4-0)

## WARRANT ARTICLE HEARINGS

Articles for Review:

Article 18: Bylaw Amendment/Expanding Equal Protection

This proposal follows a May 21, 2015 resolution of the AHRC to support presently pending legislation to bolster protections regarding gender identity and expression, commit to do what it can under its current bylaw mandates, and pursue the present warrant article to explicitly amend their duties to include gender identity and expression within AHRC's list of protected classes.

Mr. Dunn moved favorable action. SO VOTED (4-0)

Article 19: BylawAmendment/Arlington Human Rights Commission Executive Director  
The Board supports the AHRC to amend its authorizing bylaw to make the appointment of an AHRC Executive Director discretionary rather than mandatory.

Mr. Curro moved favorable action.

SO VOTED (4-0)

Article 20: BylawAmendment/Arlington Human Rights Commission Chairpersons  
The Board supports the AHRC's request to amend its authorizing bylaw to allow for "Co-Chairpersons" to better and more efficiently balance the workload of the Commission.

Mr. Curro moved favorable action.

SO VOTED (4-0)

Article 21: BylawAmendment/Arlington Commission on Arts and Culture Membership  
This article asks the Town to vote to amend Title 11, Article 8 of the Town Bylaws to increase the number of members of the Arlington Commission on Arts and Culture from seven to nine.

Mr. Curro moved favorable action.

SO VOTED (4-0)

Article 25: Bylaw/Demolition by Neglect of Historic Buildings

This article was withdrawn by its proponent.

Mr. Byrne moved no action.

SO VOTED (4-0)

Article 28: Vote/Authorizing Community Choice Aggregation

This article seeks Town Meeting's required authorization to enter into a Community Choice Electrical Aggregation (CCA) agreement with an energy broker on behalf of the Town of Arlington to provide electricity services for Town residents and business owners.

Mr. Byrne moved favorable action.

SO VOTED (4-0)

#### CORRESPONDENCE RECEIVED

Thank You Selectman Dunn

Mary Ellen Aronow, Arlington Tree Committee Co-Chair

Mr. Dunn moved receipt of "Correspondence Received".

SO VOTED (4-0)

#### NEW BUSINESS

Mr. Chapdelaine stated he would be attending the Arlington Police Department Annual Award Ceremony on Thursday, February 25, 2016 at 6:00 p.m. at the Sons of Italy Hall.

Mr. Greeley moved to adjourn at 10:15 p.m.

SO VOTED (4-0)

A true record: Attest

Marie A. Krepelka

Board Administrator

Agenda Item	Documents Used
1	Proclamation: White Ribbon Day
2	Reappointments" Cyrus Dallin Art Museum, Board of Trustees
	Sarah Burke, Aimee Taberner - terms to expires 1/31/2019
3	Appointments of New Election Workers
4	CDBG - Performance Update for Program Year 2015-2016
5	Vote: CDBG Requests for FY2016-2017 Funding
6	Appointment: Board of Library Trustees - Amy Hampe - term to expire 1/31/2019
7	Appointment: Commission on Disabilities - Liza Molina - term to expire 6/30/17
8	Appointment: Cyrus Dallin Art Museum, Board of Trustees
	Ann-Marie Delaunay-Danizio, Meghan McDavid - terms to expires 2-28-2019
9	Request - Sidewalk Fixture Permit, Bierbrier Development, 1398 Mass. Avenue
10	Discussion and Approval Lake Street Recommendations - TAC
11	Request for Statement of Support/Non-Opposition - Medical Marijuana Dispensary
12	Net Metering Letter to Legislature - Ryan Katofsky, Sustainable Arlington
13	Community Compact - Endorsement of Best Practices - Adam Chapdelaine
14	Vote: Sponsorship of "Unconscious Bias" and "Stereotypes"
	Vision 2020 Diversity Task Group
15	Vote to Adopt: Suburban Coalition Resolution regarding the Foundation Budget Review Commission - Paul Schlichtman, Chair, Arlington School Committee
16	Vote: Minuteman Building Project Assessment Task Force, Daniel Dunn
	Warrant Article Hearings - Article 18, 19, 20, 21, 25, & 28
	Correspondence Received - Mary Ellen Aronow Arlington Tree Committee Co-Chair



## Town of Arlington, Massachusetts

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**Request: One Day Beer & Wine License, 4/9/16 @ Arlington Center for the Arts Theatre, 41 Foster Street for Blues Apocalypse 2.0**

**Summary:**

Carol Band, Arlington Center for the Arts

**ATTACHMENTS:**

Type	File Name	Description
▢ Reference Material	ACA_one_day_app..pdf	One Day Application

OFFICE OF THE BOARD OF SELECTMEN



TOWN OF ARLINGTON  
MASSACHUSETTS 02476-4908

SPECIAL ALCOHOL LICENSE APPLICATION

Name of Applicant: CAROL BAND / ARLINGTON CENTER FOR THE ARTS

Address, phone & e-mail contact information: 57 BARTLETT AVE  
ARLINGTON. 617. 930. 2067. CAROL@CAROLBAND.COM

Name & address of Organization for which license is sought: ARLINGTON CTR. FOR THE ARTS  
41 FOSTER ST. ARL. MASS.

Does this Organization hold nonprofit status under the IRS Code? ☒ Yes ☐ No

Name of Responsible Manager of Organization (if different from above):

LINDA SHOEMAKER, EX. DIR.

Address, phone & e-mail contact information: linda@acafts.org  
41 FOSTER ST. ARL. 781-648-0220

Has the Applicant or Organization applied for and/or been granted a special liquor license this calendar year? NO If so, please give date(s) of Special Licenses and/or applications and title of event(s).

Is this event an annual or regular event? If so, when was the last time this event was held and at what location?

2ND ANNUAL - LAST YEARS WAS APRIL 11TH

24-Hour contact number for Responsible Manager on Event date: CAROL BAND 617 930 2067

Title of Event: BLUESAPOCALYPSE 2.0

Date/time of Event: APRIL 9th 6-10PM

Location of Event: ACH THEATRE 41 FOSTER ST. ARLINGTON

Location/Event Coordinator: CAROL BAND

Method(s) of invitation/publicity for Event: E-MAIL, CALENDAR LISTINGS

Number of people expected to attend: ~~100~~ <sup>100</sup> MAX -

Expected admission/ticket prices: \$20-25

Expected prices for food and beverages (alcoholic and non-alcoholic): \$5

Will persons under age 21 be on premises? NO

If "yes," please detail plan to prevent access of minors to alcoholic beverages.

Have you consulted with the Department of Police Services about your security plan for the Event?

HAVE LEFT MSG. W/ OFFICER RATEAU  
SEE ATTACHED -

**OFFICE USE ONLY**

*For Police Chief, Operations Commander, or designee:*

Your signature below indicates that you have discussed this event with the applicant, you have reviewed the applicant's security plan, and any necessary police details have been arranged for the Event.

Off. Corey P. Rateau Date 3/17/16  
Off. Corey P. Rateau  
Printed name/title

**POLICE COMMENTS:**

- Ms. Band must present T.I.P.S. ID with expiration date
- Ms. Band stated as the only T.I.P.S. certified bartender, she will close bar if she steps away.

What types of alcoholic beverages do you plan to serve at the Event? (Note: By State Law, all-alcohol Special Licenses are available only to nonprofit organizations.)

BEER, WINE, CIDER  
BOTTLES

What types of food and non-alcoholic beverages do you plan to serve at the Event?

SANDWICHES, DESSERTS, Seltzer, COFFEE, TEA

Who will be responsible for serving alcoholic beverages at the Event? TIPS CERTIFIED

CAROL BAND

What training or certification in responsible alcohol service does this person have? Please attach certificate or other proof of training for at least one person who will have responsibility for serving alcoholic beverages at each point of service and who will be present for the entire Event.

SEE ATTACHED

Please list the names and dates of birth for all people who will be responsible for serving alcoholic beverages at the Event. Anyone serving alcoholic beverages must be at least 21 years of age.

CAROL BAND 7.17.56  
HARRIS BAND 12.18.56

Name of the Massachusetts wholesaler who will deliver to site? (Full supplier list available on the ABCC website: [www.mass.gov/abcc](http://www.mass.gov/abcc))

BOSTON BEER CORP.

Date of Delivery: April 9 noon  
Alcohol Serving Time (s): 6-10pm

How, when, and by whom will excess alcoholic beverages obtained for the Event be disposed of?

CAROL BAND will donate unopened bottles to ACA for Board meetings.  
THERE WON'T BE MUCH

Date of Pick-Up:

Please provide details (insurance company, type of policy, name of insured, and policy limits) of any relevant insurance coverage for the Event, included but not limited to General Liability and Liquor Liability insurance. (You may be asked to supply a certificate or other proof of adequate insurance coverage.)

\$1 million commercial liability policy  
Liberty Mutual #CBP 8164253

Please submit this completed form and filing fee to the Board of Selectmen at least 21 days before your Event. Failure to provide complete information may delay the processing of your application.

I HAVE READ AND UNDERSTAND ALL RULES AND REGULATIONS:

Signature: Carol Band

Printed name: CAROL BAND

Printed title & Organization name: ARLINGTON CTR FOR THE ARTS

Email: CAROL@CAROLBAND.COM

Print

Close Window

# Certificate of Completion

This Certificate of Completion of  
**eTIPS On Premise 2.0**  
For coursework completed on June 5, 2014  
provided by Health Communications, Inc.  
is hereby granted to:

**Carol Band**

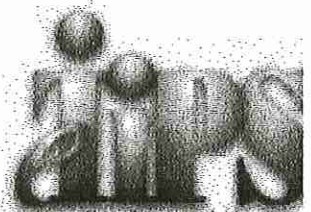
Certification to be sent to:

**57 Bartlett Ave  
Arlington MA, 02476-6452 USA**



HEALTH COMMUNICATIONS INC.

This document is not proof of TIPS certification. It signifies only that you have completed the course. Valid certification documents will be forwarded to you.



**ID# 3742106  
Expires 6/5/17**

## **SECURITY PLAN – Arlington Center for the Arts**

Event: Blues Concert

Date: Saturday, April 9, 2016

Time: 6-10pm

Attendance: 100-120

Last year's fundraiser was smooth and uneventful. We plan to recreate the same event this year and have even more staff and volunteers on hand. The event draws music lovers –most of whom are personal friends with somebody in one of the bands and most of whom are over age 40.

**Parking:** The lot adjacent to the ACA is available and more than adequate. We will have volunteers (two) manning the parking lot throughout the evening. Attendance will be staggered so there will not be traffic issues.

**Crowd Control :** We do not anticipate a large crowd. Most patrons will attend for a portion of the evening. However, we will have two staff members at the door taking tickets and two volunteers at the door of the theater checking tickets. In addition, there will be several staff members and volunteers in the Theater and lobby before after and during the event.

**Alcohol:** There will not be minors in attendance. We have a TIPS certified server – (Certification attached to application) and volunteers who are over 21 (over 50!) to serve beer and wine. All alcoholic beverages will be contained behind a bar and will be inaccessible to the patrons without first paying and showing ID.

**Unruly Patrons:** We do not expect any unruly patrons. If there are, we have designated a volunteer, who is also a trained psychologist, and an assistant to notify the event coordinator and we will determine whether the person should be escorted home or, if in an extreme case, the police need to be notified. We have a secure space for isolating potential disruptive individuals until an escort arrives.

**Emergency Evacuation** – There are two doors leading to the parking lot from the Theater which is on the ground level. In the event of an emergency, we will open the doors and alert patrons of the situation over the PA system.



## **Town of Arlington, Massachusetts**

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### **Introduction: Newly Appointed Open Space Committee Member**

#### **Summary:**

Kelsey Cowen (term to expire 6/30/2019)

#### **ATTACHMENTS:**

Type	File Name	Description
▢ Reference Material	Cowen_ref.pdf	Cowen meeting notice, Resume

## OFFICE OF THE BOARD OF SELECTMEN

KEVIN F. GREELEY, CHAIR  
DIANE M. MAHON, VICE CHAIR  
DANIEL J. DUNN  
STEVEN M. BYRNE  
JOSEPH A. CURRO, JR.



730 MASSACHUSETTS AVENUE  
TELEPHONE  
781-316-3020  
781-316-3029 FAX

TOWN OF ARLINGTON  
MASSACHUSETTS 02476-4908

March 17, 2016

Kelsey Cowen  
1275 Massachusetts Avenue  
Arlington, MA 02476

Re: Appointment: Open Space Committee

Dear Ms. Cowen:

The Board of Selectmen at the meeting of March 7, 2016 approved your appointment to the Open Space Committee. As you were unable to attend that meeting and in order that they meet you, the Board requests that you attend their meeting on Monday, March 21, 2016 at 7:15 p.m. at Town Hall, Selectmen's Chambers, 2<sup>nd</sup> Floor, 730 Massachusetts Avenue. Your presence will give the Board an opportunity to meet and discuss matters with you about the area of activity in which you will be involved.

We look forward to meeting you.

Very truly yours,  
BOARD OF SELECTMEN

A handwritten signature in cursive script, reading "Marie A. Krepelka".

Marie A. Krepelka  
Board Administrator

MAK:fr

Kelsey Cowen  
1275 Massachusetts Avenue  
Arlington, MA 02476

Adam Chapdelaine  
Town Manager  
Town of Arlington  
730 Massachusetts Avenue  
Arlington, MA 02476

Dear Mr. Chapdelaine,

I am writing to you in the hopes of becoming a new member to the Open Space Committee for the Town of Arlington. Although I am a new resident of the Town of Arlington, I have been a volunteer with the Open Space Committee for the majority of my residency. I have attended several meetings, and I feel as though my contributions to the discussion are valuable and well-received.

When I first began working with the Open Space Committee in September, I was newly graduated from college and looking for experience in community outreach and planning. My bachelor's degree is in Physics, but I have a certificate in Coastal and Marine Sciences, which has gave me academic experience in natural resource management, marine ecology, and policy analysis. In learning some of these disciplines, I discovered a strong desire to work closely with communities to encourage them to have a long-lasting and beneficial relationship with their natural resources. Volunteering with the Open Space Committee has given me an opportunity to do that, and I am enthusiastic about the possibility of joining them in their mission as an official member.

I know that Arlington is currently seeing an influx of new and younger residents. I fit into both of these categories, and I hope to bring that perspective to the Open Space Committee as they move forward with their projects. I will bring experience in community outreach and education, data analysis, and project management to the Open Space Committee, as well as considerable energy and drive.

I hope you will take the time to look through my resume, as I feel several of my past experiences will aid me should I become a member of the Open Space Committee.

Thank you for your consideration,

Kelsey Cowen

# Kelsey Cowen

1275 Massachusetts Avenue ♦ Arlington, MA 02476 ♦ C: 603-296-7474 ♦ kelseycowen@gmail.com

## EDUCATION:

Bachelor of Arts, Physics, cum laude  
Mount Holyoke College, South Hadley, MA

GPA: 3.68

## ACADEMIC ACCOMPLISHMENTS:

Member: Sigma Pi Sigma, the Physics Honors Society  
Five College Certificate: Coastal and Marine Sciences

## RELEVANT SKILLS:

- **Microsoft Office:** Word, Excel, PowerPoint
- **Programming:** Python, MATLAB, Mathematica
- **GIS:** ESRI ArcMap
- **Operating Systems:** Windows, Mac OS, Linux
- **Communication:** Academic and blog writing, Infographic and Wordpress web design, Presentations
- **Project Management:** Facilitating group meetings, Writing project proposals, Communicating with project stakeholders, Developing logic models

## DATA ANALYSIS EXPERIENCE:

Independent Study, Mount Holyoke Physics Department, South Hadley, MA January 2015-May 2015

- Learned Python to build a computational model of the stages of chaotic pendulum movement
- Troubleshoot lines of code to optimize the model

Intern, University of New Hampshire Cooperative Extension, Durham, NH June-August 2014

- Designed infographics based on research findings for public outreach use
- Troubleshoot research protocol for data accuracy and to use with citizen science volunteers
- Generated GIS maps and figures for primary data reports

NSF REU Intern, Bermuda Institute of Ocean Sciences, St. George, BDA August-November 2013

- Analyzed oceanic property data using quantitative and qualitative techniques to distinguish climate variability in the North Atlantic Ocean
- Created research project website: [oceancirculation.wordpress.com](http://oceancirculation.wordpress.com)
- Awarded 2nd place (out of 8) in presentation contest as judged by outside scientists

## OUTREACH AND PROJECT MANAGEMENT EXPERIENCE:

Volunteer, Conservation Commission, Arlington, MA August 2015-Present

- Completed an initial project proposal for a connective route system for Arlington's open spaces
- In charge of stakeholder and volunteer communications to convey project status and next steps
- Responsible for designing effective public engagement programs in Arlington conservation issues

Educator, Mount Holyoke Chemistry Passport Program September 2014-May 2015

- Worked with a team to develop and teach science engagement workshops for K-6 students
- Designed and distributed program evaluations to determine potential for improvement

## RELEVANT PROFESSIONAL WORKSHOPS:

Strengthening Your Facilitation Skills, UNH Cooperative Extension September 2015

- Training in creating effective collaborative relationships, and in meeting and group process design

Project Design and Evaluation Training, NOAA Office of Coastal Management October 2015

- Training in developing program needs assessments, logic models, evaluations, and grant proposals

## POSTER AND PRESENTATION SYMPOSIUMS:

Mount Holyoke College Senior Symposium April 2015

- Comprehensive presentation on public engagement and the dissemination of research

Five College Coastal and Marine Science Poster Symposium April 2015

- Presented REU research, tracing the circulation of distinct water masses

GIS Poster Conference, University of Massachusetts at Amherst April 2013

- Presented collaborative research project on dam removal with USGS Conte Research Center



## **Town of Arlington, Massachusetts**

---

### **Request: Common Victualler and Wine & Malt License**

#### **Summary:**

Mashed, LLC, d/b/a OTTO, 202 Massachusetts Avenue  
Anthony W. Allen & Michael P. Keon, Co-owners

#### **ATTACHMENTS:**

	Type	File Name	Description
▢	Reference Material	Ref_Mat_OTTO_3.21.16.pdf	CV/B&W Applications & Inspection Reports

## LICENSE APPLICATION REPORT

Type of License: Common Victualler and Wine & Malt Licenses

Name of Applicant: Anthony W. Allen & Michael P. Keon d/ba OTTO

Address: 202 Massachusetts Ave.

The following Departments have **no objections** to the issuance of said license:

- Police   x
- Fire
- Health
- Building
- Planning

The following Departments have **no objections** but have made comments or conditions regarding the issuance of said license: (see attached)

- Police
- Fire   x
- Health   x
- Building   x
- Planning   x

The following Departments have **objections** to the issuance of said license:  
(see attached)

- Police
- Fire
- Health
- Building
- Planning

ARLINGTON POLICE DEPARTMENT

**Frederick Ryan**  
Chief of Police



*Town of Arlington*  
MASSACHUSETTS 02474

POLICE HEADQUARTERS  
112 Mystic Street  
Telephone 781-316-3900

March 4, 2016

On Wednesday, March 2, 2016 at 12:00 PM, I called and spoke with Anthony Allen regarding this application for a Common Victualler License and Wine/Malt License for the Otto Pizza, located at 202 Mass. Ave. Mr. Allen stated that this was going to be the 12<sup>th</sup> Otto Pizza they would be opening. Allen stated that he and his partner, Michael Keon own 6 shops in NH and 5 in MA. Allen stated that they will open the restaurant and hire general managers to run the day to day operations.

I advised Mr. Allen that the Board of Selectmen may be conducting C.O.R.I and S.O.R.I checks during the application process.

Pending the checks conducted by the Board of Selectmen's Office, Arlington Police Dept. is not aware of any law enforcement or public safety reasons to object to the Common Victualler/Wine & Malt License for the Otto Pizza .

Respectfully Submitted,

Detective Edward DeFrancisco

APPLICANT SIGNATURE SECTION:

APPLICANT'S SIGNATURE \_\_\_\_\_

DATE: \_\_\_\_\_

*"Proactive and Proud"*

**BOARD OF SELECTMEN  
TOWN OF ARLINGTON - INSPECTION REPORT**

Report is due at the Office of the Board of Selectmen by, **March 16, 2016**  
**ONE REPORT IS REQUIRED FROM EACH DEPARTMENT.**

Location: 202 Massachusetts Ave.  
Applicant's Name: Anthony W. Allen & Michael P. Keon  
D/B/A: OTTO d/b/a Mashed, LLC  
Telephone: Anthony Allen 978 500-9993; Michael Keon 978 886-8178  
Department: Sent Via E-mail Date: 2/19/16

**MEETING DATE: FEBRUARY 21, 2016**

Inspected By:

**RE: COMMON VICTUALLER LICENSE and WINE & MALT**

Police

Fire

Board of Health

Building

Planning

**INSPECTION REPORT SECTION:**

All fire protection must be inspected. All extinguishers must have annual inspection tag. Must have "K" extinguisher for kitchen area. All emergency lights and exit signs must be in working order. All exits must remain clear. Combustibles are not to be stored inside building.

(SRK)

**APPLICANT SIGNATURE SECTION:**

I have received the above report and acknowledge said inspection. I fully understand that no work is to commence at the premises of the proposed location of which is the subject matter of this inspection report until the license is approved by the Board of Selectmen; furthermore, any work done is done at the applicant's risk.

Applicant's Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**BOARD OF SELECTMEN  
TOWN OF ARLINGTON - INSPECTION REPORT**

Report is due at the Office of the Board of Selectmen by, **March 16, 2016**  
**ONE REPORT IS REQUIRED FROM EACH DEPARTMENT.**

Location: 202 Massachusetts Ave.  
Applicant's Name: Anthony W. Allen & Michael P. Keon  
D/B/A: OTTO d/b/a Mashed, LLC  
Telephone: Anthony Allen 978 500-9993; Michael Keon 978 886-8178  
Department: Sent Via E-mail Date: 2/19/16

---

**MEETING DATE: FEBRUARY 21, 2016**

Inspected By:

**RE: COMMON VICTUALLER LICENSE and WINE & MALT**

Police  
Fire  
Board of Health  
Building  
Planning

**INSPECTION REPORT SECTION:**

To date, the applicant has not submitted a Plan Review Application. A Permit to Operate a Food Establishment cannot be considered until the Plan Review Application has been submitted and approved by the Health Department. Upon approval of said plans, one or more pre-operational inspections of the establishment will be conducted to verify compliance with the Food Code. Upon successful pre-operational inspection a Permit to Operate a Food Establishment will be issued to the applicant.

---

**APPLICANT SIGNATURE SECTION:**

I have received the above report and acknowledge said inspection. I fully understand that no work is to commence at the premises of the proposed location of which is the subject matter of this inspection report until the license is approved by the Board of Selectmen; furthermore, any work done is done at the applicant's risk.

Applicant's Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**BOARD OF SELECTMEN  
TOWN OF ARLINGTON – INSPECTION REPORT**

Report is due at the office of the Board of Selectmen by, **March 16, 2016**  
**ONE REPORT IS REQUIRED FROM EACH DEPARTMENT.**

Location: 202 Massachusetts Ave.  
Applicants Name: Anthony W. Allen & Michael P. Keon  
D/B/A: OTTA d/b/a/Mashed, LLC  
Telephone: Anthony Allen 978 500-9993; Michael Keon 978 886-8178  
Department: Sent E-mail Date: 3/16/2016

---

**MEETING DATE: MARCH 21, 2016**

Inspected By:

**RE: COMMON VICTUALLER LICENSE and WINE & MALT**

Police  
Fire  
Board of Health  
**Building, Wiring, Plumbing**  
Planning

**INSPECTION REPORT SECTION:**

**Building**

All building changes need permits.  
All sign changes need approval and sign permit.  
Window signs cannot exceed 25% of window or fines will be levied.  
Certificate of Occupancy is needed - \$100 fee.  
The Director of Inspectional Services has no objection to the issuance/ renewal of this license as the applicant has been made aware of seating capacity and necessity for showing proof of ownership of sidewalk

**Plumbing**

The Inspector of Plumbing and Gasfitting has no objection to the issuance/ renewal of this license.  
All plumbing and Gasfitting work requires that the permits be obtained from this office for their respective trades by licensed contractors.

**Electrical**

The Inspector Wires has no objection to the issuance/ renewal of this license.  
The applicant acknowledges that this is a conditional approval of the premises only and is not to be constructed as approval by the Inspector of Wires of concealed electrical wiring. Any new wiring must conform to the Mass. Electrical Code. Notify the Inspector of Wires in accordance with Chapter 143, Section 31.

---

**APPLICANT SIGNATURE SECTION:**

I have received the above report and knowledge said inspection. I fully understand that no work is to commence at the premises of the proposed location of which is the subject matter of this inspection report until the license is approved by the Board of Selectmen; furthermore, any work done is done at the applicants risk.

Applicant's Name: \_\_\_\_\_

Date: \_\_\_\_\_

**BOARD OF SELECTMEN  
TOWN OF ARLINGTON - INSPECTION REPORT**

Report is due at the Office of the Board of Selectmen by, **March 16, 2016**  
**ONE REPORT IS REQUIRED FROM EACH DEPARTMENT.**

Location: 202 Massachusetts Ave.  
Applicant's Name: Anthony W. Allen & Michael P. Keon  
D/B/A: OTTO d/b/a Mashed, LLC  
Telephone: Anthony Allen 978 500-9993; Michael Keon 978 886-8178  
Department: Sent Via E-mail Date: 2/19/16

---

**MEETING DATE: MARCH 21, 2016**

Inspected By: *Ted Fields 3.15.2016*

**RE: COMMON VICTUALLER LICENSE and WINE & MALT**

Police  
Fire  
Board of Health  
Building  
Planning

**INSPECTION REPORT SECTION:**

The business proposed for this site is a 1700 square foot pizza restaurant selling artisanal pizza and salads for consumption on and off the premises from 11am to 11pm weekdays (Sunday through Thursday) and 11am – 12am on weekends (Friday & Saturday). There is seating for up to nineteen (19) patrons and no assigned on-street or off-street parking spaces. It is a small enterprise serving the Capital Theatre and residential neighborhoods around the Capital Square business district (B3 zone). It is an appropriate type of business for its location on Massachusetts Avenue in the midst of a village commercial center.

The Dept. of Planning and Community Development has no objection to the issuance of a Common Victualler license as requested.

---

**APPLICANT SIGNATURE SECTION:**

I have received the above report and acknowledge said inspection. I fully understand that no work is to commence at the premises of the proposed location of which is the subject matter of this inspection report until the license is approved by the Board of Selectmen; furthermore, any work done is done at the applicant's risk.

Applicant's Signature: \_\_\_\_\_

Date: \_\_\_\_\_

OFFICE OF THE BOARD OF SELECTMEN  
730 Massachusetts Avenue  
Town of Arlington  
Massachusetts 02476-4908

(781) 316-3020  
(781) 316-3029 fax

\$60.00 Filing Fee

APPLICATION

☒ COMMON VICTUALLER LICENSE

☐ FOOD VENDOR LICENSE (Take Out Only)

You must complete an application packet from the Board of Health Department located at 27 Maple St.

You must have the completed application reviewed by the Inspections Department located at 51 Grove St. before filing this application with this office

Location 202A MA AVE  
Name of Applicant ANTHONY ALLEN  
Corporate Name (if applicable) MASHED, LLC  
D/B/A OTTO  
Date 2/12/2016

I/We hereby agree to conform in all respects to the conditions governing such License as printed in the By-Laws of the Town, and such other rules and regulations as the Selectmen may establish. With the signing of this application, the applicant acknowledges that:

(A) it is understood that the Board is not required to grant the license.

(B) no work is to commence at the premises of the proposed location which is the subject matter of this application until the license is approved by the Board of Selectmen, and, furthermore, any work done is done at the applicant's risk, and

(C) in the event of a proposed sale of a business requiring a Common Victualler License, an application for a transfer of said license will be deemed to be an application for a new license (subject to the rules and regulations herein contained), and the owner of such business shall be required to file with the Board of Selectmen a thirty day notice of his intention to sell same before such application will be acted upon by the Selectmen.

(D) that the license is subject to revocation if the holder of the license does not comply with Town By-Laws or the Rules and Regulations of the Board.

Signature Name [Signature]

Signature Name [Signature]

Phone: 978-500-9993 Email: anthony@ottoportland.com

Note: (A) If a corporation, state full names and addresses of principal officers.

(B) If a co-partnership, information must be provided on each partner; if a corporation, information must be provided on corporate officer making application.

Name <u>ANTHONY W ALLEN</u>	Name <u>MICHAEL P KEON</u>
Address <u>2 Stanley Ave</u>	Address <u>486 CONGRESS ST</u>
City <u>NEWBURYPORT</u> Zip <u>01950</u>	City <u>PORTLAND</u> Zip <u>04101</u>
DESCRIPTION OF APPLICANT	DESCRIPTION OF APPLICANT
Born in the U.S., Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Born in the U.S., Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Born Where <u>BOSTON</u>	Born Where <u>LOWELL</u>
Date of Naturalization _____	Date of Naturalization _____
Male or Female <u>M</u>	Male or Female <u>M</u>
Date of birth <u>[REDACTED]</u>	Date of birth <u>[REDACTED]</u>
Height <u>5</u> ft. <u>9</u> in.	Height <u>6</u> ft. <u>0</u> in.
Weight <u>225</u>	Weight <u>210</u>
Complexion <u>LIGHT</u>	Complexion <u>LIGHT</u>
Hair <u>DK BLOND</u> Eyes <u>BLUE</u>	Hair <u>SILVER</u> Eyes <u>GREEN</u>
Mother's Name <u>MARTHA</u>	Mother's Name <u>NANCY</u>
Father's Name <u>WINSTON</u>	Father's Name <u>PHIL</u>
Wife's Maiden Name <u>FRECHETTE</u>	Wife's Maiden Name <u>AMORELLI</u>
Photo <u>1 inch by 1 inch</u>	



The Establishment shall operate as:

☐ Sole Ownership ☒ Partnership ☐ Total Number of Partners ☐ Corporation Based in NEWBURYPORT  
(Once approved, please go to Clerk's Office for Business Certificate)

Corporate Information Required:

President	<u>ANTHONY ALLEN</u>	<u>2 Stanley Ave, Newburyport MA</u>
Secretary	<u>ANTHONY ALLEN</u>	<u>01950</u>
Treasurer	<u>MICHAEL P KEON</u>	<u>486 CONGRESS ST PORTLAND ME</u>
	Name	Address Zip
		<u>04101</u>

# INFORMATION RELATIVE TO APPLICATION

Breakfast \_\_\_\_\_

Yes \_\_\_ No x \_\_\_\_\_

Lunch \_\_\_\_\_

Yes x No \_\_\_ \_\_\_\_\_

Dinner \_\_\_\_\_

Yes x No \_\_\_ \_\_\_\_\_

Do you own the property? Yes \_\_\_ No x Tenant At Will \_\_\_\_\_ Lease X years 3 yrs  
Hours of Operation: 3 5 yr options

Day SUNDAY - THURS Hours 11am - 11 pm

Day FRI - SAT Hours 11 am - 12 AM

Day \_\_\_\_\_ Hours \_\_\_\_\_

Floor Space \_\_\_\_\_ Sq. Ft. Seating Capacity (if any) 19

Parking Capacity (if any) N/A spaces Number of Employees \_\_\_\_\_

List Cooking Facilities (and implements) \_\_\_\_\_

Will a food scale be in use for sale of items to the public? Yes \_\_\_ No x

Will catering services be provided by you? Yes \_\_\_ No x

*A copy of the following items must be submitted with the application:*

1. Layout Plan of Facility & Fixtures
- ② Site Plan (obtained at Bldg. Dept., 51 Grove St.)
3. Outside Facade and Sign Plan (dimensions, color)
4. Menu
5. Maintenance Program

If the facilities are not yet completed, provide estimated cost of work to be done \$ \_\_\_\_\_

## FOR OFFICE USE ONLY

Scheduled Hearing when Application will be presented to Board of Selectmen for approval:

Date \_\_\_\_\_ Time \_\_\_\_\_

Board Action: Approved Yes \_\_\_ No \_\_\_\_\_

# APPLICANT'S RESUME

## Food Business Experience of Applicant

From 2009 to 2016  
 Employee OSCAR PIZZA / MASHED D/B/A OTTO  
 Sole Owner \_\_\_\_\_ Location \_\_\_\_\_  
 Partnership \_\_\_\_\_ Type Food \_\_\_\_\_  
 Corporation OSCAR / MASHED LLC Number of Employees 357

From \_\_\_\_\_ to \_\_\_\_\_  
 Employee \_\_\_\_\_ D/B/A \_\_\_\_\_  
 Sole Owner \_\_\_\_\_ Location \_\_\_\_\_  
 Partnership \_\_\_\_\_ Type Food \_\_\_\_\_  
 Corporation \_\_\_\_\_ Number of Employees \_\_\_\_\_

List any other information that you feel will assist in the review of this application.

✓ OWN 12 UNIT between MA and MASS  
 PIZZA Experience Ring Bell - Studied in Italy -  
 opened OTTO in 2009

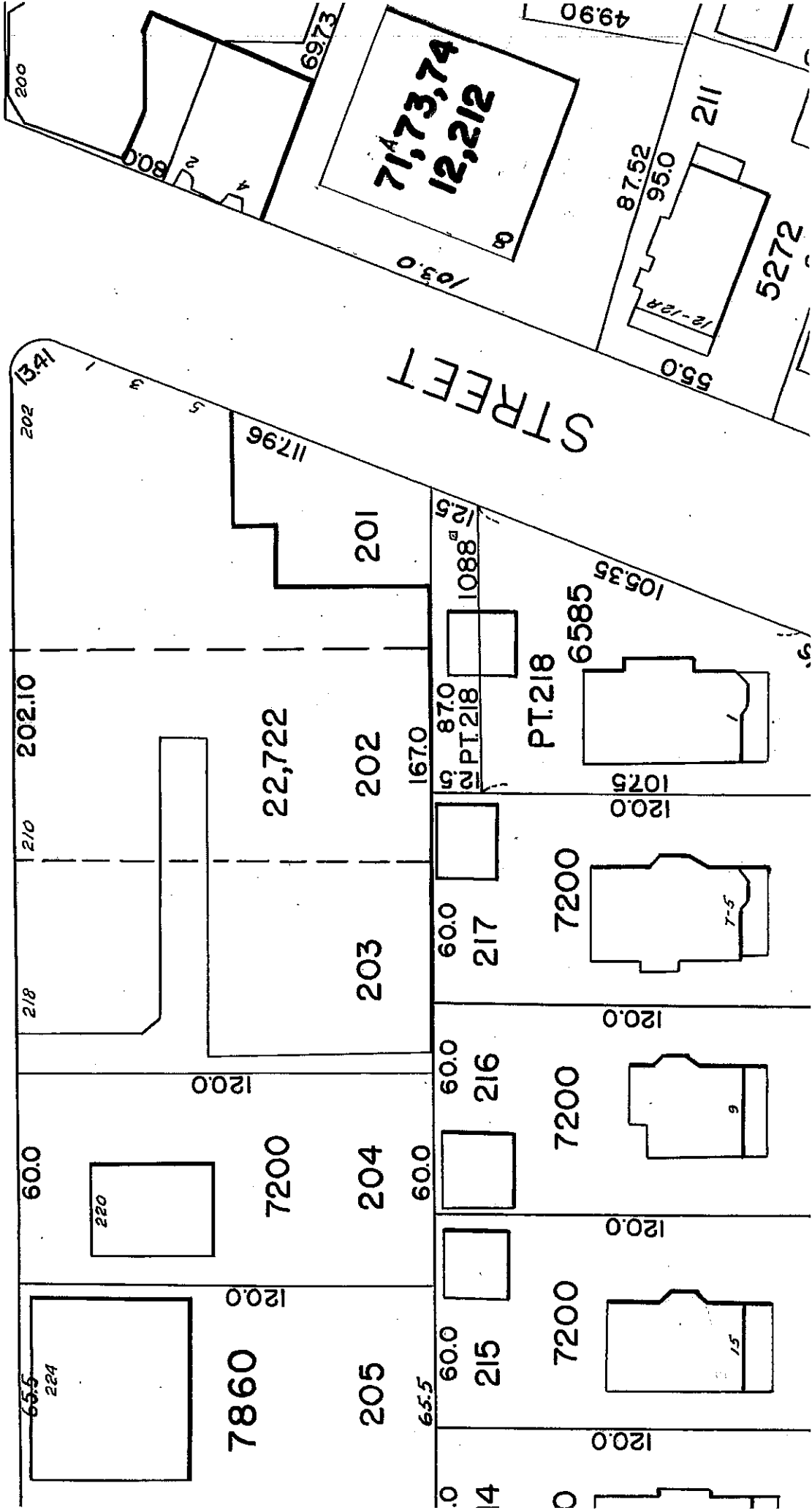
## REFERENCES

Bank TD BANK Type Account Personal Business ☒  
 Address Longwood Parkland Phone 503 219 8520  
 Account Number [REDACTED] Contact HEATHER  
 Personal Reference Mike Kern  
 Address 466 Longwood Pl Phone 978 886 8178  
 Prior Employer /  
 Address \_\_\_\_\_ Phone \_\_\_\_\_  
 Number of years employed \_\_\_\_\_ From \_\_\_\_\_ To \_\_\_\_\_  
 Contact \_\_\_\_\_ Position Held \_\_\_\_\_  
 Other \_\_\_\_\_

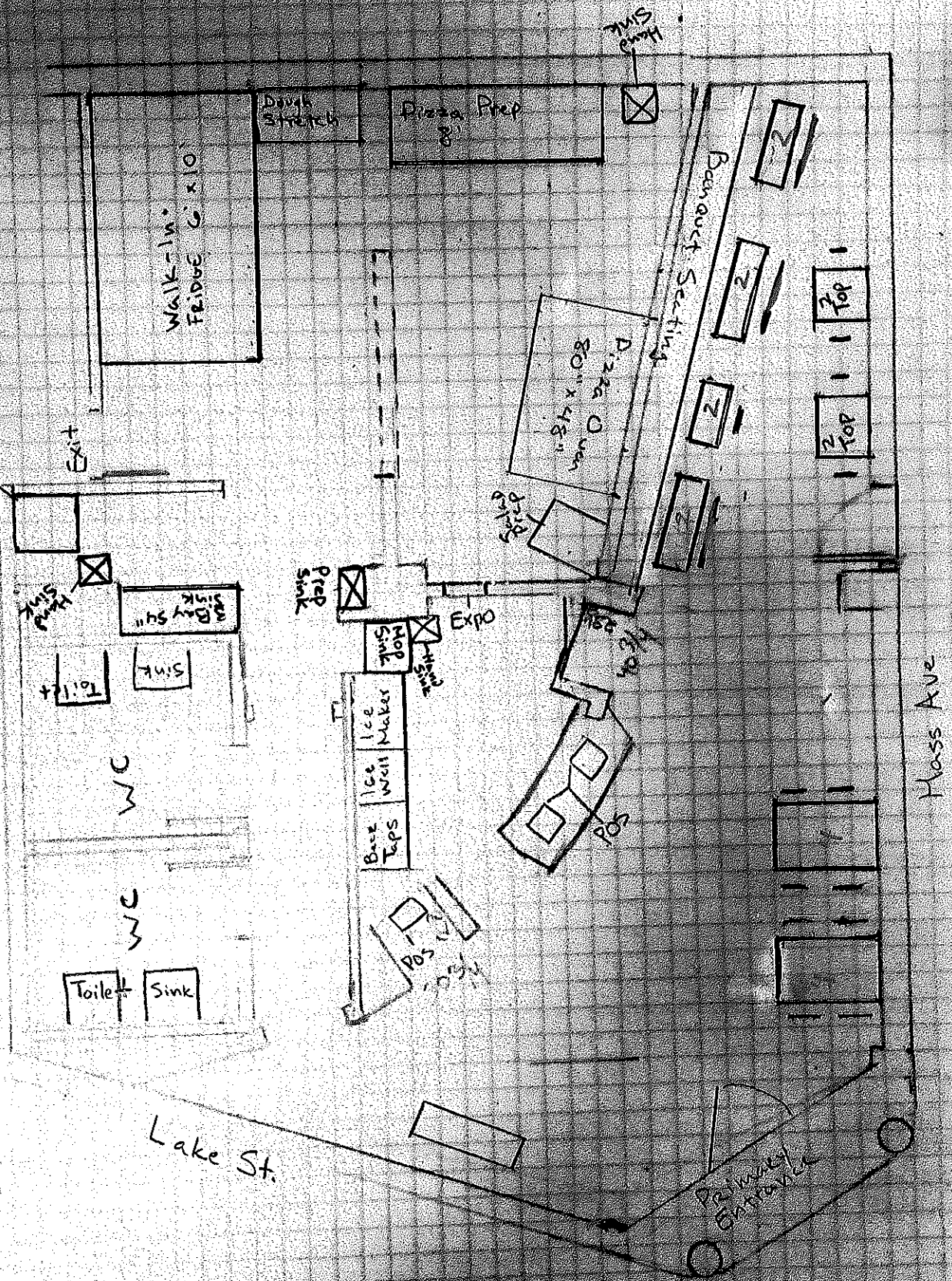
Name

Address

AVENUE



MASSED LIL RRA OTIO  
SEATING CAPACITY 519





OTTO Pizza Arlington  
202 Mass Ave Arlington

Store Contact:  
Alex Budd  
603-438-9875  
alexb@ottoportland.com

Maintenance Program

Grease Trap Service:  
Baker Commodities  
Regularity – 90 Days  
Contact 978-454-8811

Hood Cleaning:  
CS Ventilation  
Regularity – 120 Days  
Contact 781-246-9300

Fire Inspection:  
CS Ventilation  
Regularity – Annual  
Contact 781-246-9300

Pest Control:  
GES  
Regularity – Monthly  
Contact 888-577-8930



## BEGIN

House-made Pork & Beef  
Meatballs \$8

Bruschetta \$7  
*add fresh mozzarella +\$1.50*

Hot Italian Sausage with  
Cannellini Beans, Fresh Herb  
& Asiago \$7

## SALADS

Chopped BLT Salad \$7  
*add blue cheese +\$1*  
*bacon, tomato, scallion, with creamy*  
*buttermilk dressing*

Caesar \$7  
*add chicken +\$2*  
*romaine lettuce, shaved parmesan,*  
*cracked pepper, house-made croutons,*  
*Caesar dressing*

Romaine & Fennel \$6  
*romaine lettuce, sliced fennel,*  
*radishes, granny smith apple, with*  
*creamy buttermilk dressing and*  
*sunflower seeds*

Tomato, Fresh Mozzarella  
& Basil \$8  
*garden tomatoes, fresh whole milk*  
*mozzarella, fresh lemon, extra virgin*  
*olive oil, sea salt, cracked pepper*  
*and basil*

## ASK ABOUT WEEKLY PIE SPECIALS



## PIES w

Pepperoni ● \$11/\$17

Chicken & Basil ● \$12/\$19

Sausage & Vidalia Onion ●  
\$12/\$19

Chicken, Caramelized Pears  
& Fontina Cheese \$13/\$21

Mashed Potato, Bacon &  
Scallion \$13/\$21

Pulled Pork & Mango \$12/\$19

Mushroom, Bacon & Vidalia  
Onion \$13/\$21

Genoa Salami & Ricotta \$12/\$19

Spicy Pulled Pork with Scallion  
\$12/\$19

Roasted Pineapple, Bacon &  
Red Pepper Flake \$13/\$21

Sriracha, Chicken & Avocado  
\$13/\$21

Sausage, Broccoli Rabe & Red  
Pepper Flake \$13/\$21

Tomato, Salami & Scallion ●  
\$13/\$21



## & VEG PIES

Cheese ● \$10/\$15

Margherita \$12/\$19  
*fresh Roma tomatoes and basil*

OTTO Four Cheese \$13/\$21  
*ricotta, fontina, asiago, mozzarella*

Butternut Squash, Ricotta  
& Cranberry \$13/\$21

Mushroom & Roasted Cauliflower  
\$12/\$19

Ricotta & Basil ● \$12/\$19

Tortellini & Ricotta ● \$12/\$19

Roasted Red Pepper, Kalamata  
Olive & Roasted Garlic ● \$13/\$21

Eggplant, Ricotta & Basil ●  
\$13/\$21

Spinach, White Bean & Roasted  
Garlic ● \$13/\$21

Blue Cheese, Roasted Pear  
& Arugula \$13/\$21



*Potatoes*  
*are proudly sourced from*  
*Green Thumb Farms, Fryeburg ME*

*Select meats*  
*are proudly sourced from*  
*Maine Family Farms, Portland ME*

## WHOLE PIES

12" = \$10 (+ \$1 per topping)

16" = \$15 (+ \$2 per topping)

● = tomato-based pies  
all others white pies



## GLUTEN-FREE CRUST PIZZA 12"

\$12 (+ \$1 per topping)

*All pies available on gluten-free crust (with the exception of Three-Cheese Tortellini)*

OTTO's gluten-free options are appropriate for guests with mild gluten sensitivity. However, they are not recommended for guests with celiac disease. While the crust is prepared off-site in a 100% gluten-free production facility, current store operations cannot guarantee that each handmade pizza does not contain trace amounts of gluten.



## CHEESE(S)

- Cheese● \$10/\$15
- Ricotta & Basil● \$12/\$19
- Three-Cheese Tortellini● \$11/\$17
- OTTO Four Cheese \$13/\$21

## VEG

- Margherita \$12/\$19
- Butternut Squash, Ricotta & Cranberry \$13/\$21
- Kalamata Olive, Red Pepper, Garlic & Asiago● \$12/\$19
- Eggplant, Ricotta & Basil● \$13/\$21
- Spinach, White Bean & Roasted Garlic● \$13/\$21
- Mushroom, Ricotta & Herb \$12/\$19

## WHOLE PIES

- 12" = \$10 (+ \$1 each topping)
- 16" = \$15 (+ \$2 each topping)

- = tomato-based pies
- all others white pies

## PIES w



- Mashed Potato, Bacon & Scallion \$13/\$21
- Pulled Pork & Mango \$12/\$19
- Mushroom, Bacon & Vidalia Onion \$13/\$21
- Apple, Bacon & Red Onion● \$13/\$21
- Spicy Pulled Pork with Scallion & Herb \$12/\$19
- White Bean, Sausage, Herb & Chili Flake \$13/\$21
- Sausage & Vidalia Onion● \$12/\$19



## & OTHER MEAT

- Pepperoni● \$11/\$17
- Chicken & Basil● \$12/\$19
- Roasted Chicken, Caramelized Pears & Fontina Cheese \$13/\$21
- Meatloaf, Mashed Potato & Herb \$13/\$21



## GLUTEN-FREE CRUST PIZZA 10"

All pies available on gluten-free crust (with the exception of Three-Cheese Tortellini)

*OTTO's gluten-free options are appropriate for guests with mild gluten sensitivity. However, they are not recommended for guests with celiac disease. While the crust is prepared off-site in a 100% gluten-free production facility, current store operations cannot guarantee that each handmade pizza does not contain trace amounts of gluten.*

Before placing your order, please inform your server if a person in your party has a food allergy.

617-499-3352

Delivery & Catering:

Order Online: [www.ottoportland.com](http://www.ottoportland.com)

ASK ABOUT  
OUR  
SELECTION OF  
**DRINKS**  
**SALADS**

# APPLICATION FOR RETAIL ALCOHOLIC BEVERAGE LICENSE

City/Town

Arlington

RECEIVED  
SELECTMEN'S OFFICE  
ARLINGTON, MA. 02174

FEB 23 8 52 AM 16

## 1. LICENSEE INFORMATION:

A. Legal Name/Entity of Applicant:(Corporation, LLC or Individual) Mashed, LLC

B. Business Name (if different) : OTTO C. Manager of Record: Troy Spout

D. ABCC License Number (for existing licenses only) :

E. Address of Licensed Premises: 202 Massachusetts Ave City/Town: Arlington State: MA Zip: 02474

F. Business Phone: TBD G. Cell Phone: 978-500-9993

H. Email: anthony@ottoportland.com I. Website: ottoportland.com

J. Mailing address (If different from E.): Otto Office 574 Congress St City/Town: Portland State: Maine Zip: 04101

## 2. TRANSACTION:

- ☒ New License ☐ New Officer/Director ☐ Transfer of Stock ☐ Issuance of Stock ☐ Pledge of Stock  
☐ Transfer of License ☐ New Stockholder ☐ Management/Operating Agreement ☐ Pledge of License

### The following transactions must be processed as new licenses:

- ☐ Seasonal to Annual ☐ (6) Day to (7)-Day License ☐ Wine & Malt to All Alcohol

**IMPORTANT ATTACHMENTS (1):** The applicant must attach a vote of the entity authorizing all requested transactions, including the appointment of a Manager of Record or principal representative.

## 3. TYPE OF LICENSE:

- ☒ \$12 Restaurant ☐ \$12 Hotel ☐ \$12 Club ☐ \$12 Veterans Club ☐ \$12 Continuing Care Retirement Community  
☐ \$12 General On-Premises ☐ \$12 Tavern (No Sundays) ☐ \$15 Package Store

## 4. LICENSE CATEGORY:

- ☐ All Alcoholic Beverages ☒ Wines & Malt Beverages ☐ Wines ☐ Malt  
☐ Wine & Malt Beverages with Cordials/Liqueurs Permit

## 5. LICENSE CLASS:

- ☒ Annual ☐ Seasonal

**6. CONTACT PERSON CONCERNING THIS APPLICATION (ATTORNEY IF APPLICABLE)**

NAME:

ADDRESS:

CITY/TOWN:  STATE:  ZIP CODE:

CONTACT PHONE NUMBER:  FAX NUMBER:

EMAIL:

**7. DESCRIPTION OF PREMISES:**

Please provide a complete description of the premises. Please note that this must be identical to the description on the Form 43. **Your description MUST include: number of floors, number of rooms on each floor, any outdoor areas to be included in licensed area, and total square footage.** i.e.: "Three story building, first floor to be licensed, 3 rooms, 1 entrance 2 exits (3200 sq ft); outdoor patio (1200 sq ft); Basement for storage (1200 sq ft). Total sq ft = 5600."

Total Square Footage:  Number of Entrances:  Number of Exits:

Occupancy Number:  Seating Capacity:

✓ **IMPORTANT ATTACHMENTS (2):** The applicant must attach a floor plan with dimensions and square footage for each floor & room.

**8. OCCUPANCY OF PREMISES:**

By what right does the applicant have possession and/or legal occupancy of the premises?

**IMPORTANT ATTACHMENTS (3):** The applicant must submit a copy of the final lease or documents evidencing a legal right to occupy the premises.

Other:

Landlord is a(n):

Other:

Name:

Phone:

Address:

City/Town:

State:

Zip:

Initial Lease Term: Beginning Date

Ending Date

Renewal Term:

Options/Extensions at:

Years Each

Rent:

Per Year

Rent:

Per Month

Do the terms of the lease or other arrangement require payments to the Landlord based on a percentage of the alcohol sales?

Yes ☐ No ☒

If Yes, Landlord Entity must be listed in Question # 10 of this application.

If the principals of the applicant corporation or LLC have created a separate corporation or LLC to hold the real estate, the applicant must still provide a lease between the two entities.

**12. PREVIOUSLY HELD INTERESTS IN OTHER LICENSES:**

Has any individual listed in §10 who has a direct or indirect beneficial interest in this license ever held a direct or indirect, beneficial or financial interest in a license to sell alcoholic beverages, which is not presently held? Yes ☐ No ☐ If yes, list said interest below:

Name	Licensee Name & Address	Date	Reason Terminated
Anthony W Allen	Anthony W. Allen 82 Washington St, Haverhill, MA	1997-2004	Not Renewed
Michael P. Keon	'KEONS 105' 105 WASHINGTON ST, HAVERHILL MA	1999 - 2005	Please Select <del>TRANSFERRED</del>
	(SOLD Business - transferred license)		Please Select

**13. DISCLOSURE OF LICENSE DISCIPLINARY ACTION:**

Have any of the disclosed licenses to sell alcoholic beverages listed in §11 and/or §12 ever been suspended, revoked or cancelled? Yes ☒ No ☐ If yes, list said interest below:

Date	License	Reason of Suspension, Revocation or Cancellation
2/1998	All Alcohol	Serving After Hours. 1 Week Suspension, 'Stayed'

**14. CITIZENSHIP AND RESIDENCY REQUIREMENTS FOR A (§15) PACKAGE STORE LICENSE ONLY :****A.) For Individual(s):**

1. Are you a U.S. Citizen? Yes ☐ No ☐
2. Are you a Massachusetts Residents? Yes ☐ No ☐

**B.) For Corporation(s) and LLC(s) :**

1. Are all Directors/LLC Managers U.S. Citizens? Yes ☐ No ☐
2. Are a majority of Directors/LLC Managers Massachusetts Residents? Yes ☐ No ☐
3. Is the License Manager a U.S. Citizen? Yes ☐ No ☐

**C.) For Individual(s), Shareholder(s), Member(s), Director(s) and Officer(s):**

- 1.. Are all Individual(s), Shareholders, Members, Directors, LLC Managers and Officers involved at least twenty-one (21) years old? Yes ☐ No ☐

**15. CITIZENSHIP AND RESIDENCY REQUIREMENTS FOR (§12) RESTAURANT, HOTEL, CLUB, GENERAL ON PREMISE, TAVERN, VETERANS CLUB LICENSE ONLY:****A.) For Individual(s):**

1. Are you a U.S. Citizen? Yes ☒ No ☐

**B.) For Corporation(s) and LLC(s) :**

1. Are a majority of Directors/LLC Managers **NOT** U.S. Citizen(s)? Yes ☐ No ☒
2. Is the License Manager or Principal Representative a U.S. Citizen? Yes ☒ No ☐

**C.) For Individual(s), Shareholder(s), Member(s), Director(s) and Officer(s):**

- 1.. Are all Individual(s), Shareholders, Members, Directors, LLC Managers and Officers involved at least twenty-one (21) years old? Yes ☒ No ☐

**16. COSTS ASSOCIATED WITH LICENSE TRANSACTION:**

A. Purchase Price for Real Property:

-0-

B. Purchase Price for Business Assets:

-0-

C. Costs of Renovations/Construction:

\$30,000.00

D. Initial Start-Up Costs:

\$60,000.00

E. Purchase Price for Inventory:

-0-

F. Other: (Specify)

G: TOTAL COST

\$90,000.00

H. TOTAL CASH

\$90,000.00

I. TOTAL AMOUNT FINANCED

-0-

**IMPORTANT ATTACHMENTS (5):** Any individual, LLC, corporate entity, etc. providing funds of \$50,000 or greater towards this transaction, must provide proof of the source of said funds. Proof may consist of three consecutive months of bank statements with a minimum balance of the amount described, a letter from your financial institution stating there are sufficient funds to cover the amount described, loan documentation, or other documentation.

The amounts listed in subsections (H) and (I) must total the amount reflected in (G).

**17. PROVIDE A DETAILED EXPLANATION OF THE FORM(S) AND SOURCE(S) OF FUNDING FOR THE COSTS IDENTIFIED ABOVE (INCLUDE LOANS, MORTGAGES, LINES OF CREDIT, NOTES, PERSONAL FUNDS, GIFTS):**

Funding: We are funding this project ourselves.

WE ALSO HAVE FINANCING FROM OUR MERCHANT ACCT PROCESSOR, BATCHOUT.COM FOR \$150,000- (PAPERWORK ENCLOSED) THIS IS BACKUP FINANCING

\*If additional space is needed, please use last page.

**18. LIST EACH LENDER AND LOAN AMOUNT(S) FROM WHICH "TOTAL AMOUNT FINANCED" NOTED IN SUB-SECTIONS 16(I) WILL DERIVE:**

A.

Name	Dollar Amount	Type of Financing
BATCHOUT.COM	\$150,000.00	LOAN REPAYED THROUGH OUR CREDIT CARD PROCESSING CO. @ 15.9%

\*If additional space is needed, please use last page.

B. Does any individual or entity listed in §17 or §18 as a source of financing have a direct or indirect, beneficial or financial interest in this license or any other license(s) granted under Chapter 138? Yes ☐ No ☒

If yes, please describe:

The Applicant is a(n):

LLC

Other :

If the applicant is a Corporation or LLC, complete the following:

Date of Incorporation/Organization:

6/2010

State of Incorporation/Organization:

Ma

Is the Corporation publicly traded?

Yes ☐ No ☒

#### 10. INTERESTS IN THIS LICENSE:

List all individuals involved in the entity (e.g. corporate stockholders, directors, officers and LLC members and managers) and any person or entity with a direct or indirect, beneficial or financial interest in this license.

##### IMPORTANT ATTACHMENTS (4):

A. All individuals or entities listed below are required to complete a Personal Information Form.

B. All shareholders, LLC members or other individuals with any ownership in this license must complete a CORI Release Form (unless they are a landlord entity)

Name	All Titles and Positions	Specific % Owned	Other Beneficial Interest
Anthony W. Allen	Managing Member	50%	
Michael P. Keon	Managing Member	50%	
Troy Sproul	Manager	0%	

\*If additional space is needed, please use last page.

#### 11. EXISTING INTEREST IN OTHER LICENSES:

Does any individual listed in §10 have any direct or indirect, beneficial or financial interest in any other license to sell alcoholic beverages? Yes ☒ No ☐ If yes, list said interest below:

Name	License Type	Licensee Name & Address
Anthony W. Allen	§12 Restaurant	Mashed, LLC 289 Harvard St, Brookline, MA 02146
Michael P. Keon	§12 Restaurant	Mashed, LLC 289 Harvard St, Brookline, MA 02146
Anthony W. Allen	§12 Restaurant	Mashed, LLC 888 Commonwealth Ave, Boston, MA
Michael P. Keon	§12 Restaurant	Mashed, LLC 888 Commonwealth Ave, Boston, MA
	Please Select	
	Please Select	

\*If additional space is needed, please use last page

**19. PLEDGE: (i.e. COLLATERAL FOR A LOAN)**

A.) Is the applicant seeking approval to pledge the license? ☐ Yes ☒ No

1. If yes, to whom:

2. Amount of Loan:

3. Interest Rate:

4. Length of Note:

5. Terms of Loan :

B.) If a corporation, is the applicant seeking approval to pledge any of the corporate stock? ☐ Yes ☒ No

1. If yes, to whom:

2. Number of Shares:

C.) Is the applicant pledging the inventory? ☐ Yes ☒ No

If yes, to whom:

**IMPORTANT ATTACHMENTS (6):** If you are applying for a pledge, submit the pledge agreement, the promissory note and a vote of the Corporation/LLC approving the pledge.

**20. CONSTRUCTION OF PREMISES:**

Are the premises being remodeled, redecorated or constructed in any way? If YES, please provide a description of the work being performed on the premises: ☒ Yes ☐ No

Space was formally a pizza shop and requires little alteration:

- Patching 100 sf of Kitchen Floor.
- Adhering 400 sf of 'reclaimed wood' in restaurant space, and bathrooms.
- Building Bench Seating along one wall (18').
- Swapping countertops for Butcher Block
- Painting entire space.
- Refinishing the Floors.

**21. ANTICIPATED OPENING DATE:** April 2016

IF ALL OF THE INFORMATION AND  
ATTACHMENTS ARE NOT COMPLETE  
THE APPLICATION WILL BE  
**RETURNED**



## **Town of Arlington, Massachusetts**

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### **Arlington Commission on Arts and Culture 2015 Annual Report**

#### **Summary:**

Barbara Costa and Stephanie Marlin-Curiel, ACAC Co-Chairs

#### **ATTACHMENTS:**

Type	File Name	Description
▢ Reference Material	Commission_on_Arts_and_Culture_(ACAC)_2015_report_2.9.16.docx	ACAC 2015 Annual Report

## **2015 ANNUAL REPORT OF THE ARLINGTON COMMISSION ON ARTS & CULTURE (ACAC)**

The mission of Arlington Commission on Arts and Culture (ACAC) is to advocate for arts and cultural opportunities throughout Arlington and advise the Town on matters of a cultural and artistic nature. Originally established under Article 21 of Town Meeting in 1993, but not populated at the time, the Commission was reestablished in January of 2013. The Commission meets monthly, on the first Thursday of the month in the Jefferson Cutter Gallery. All meetings are open to the public.

### **Cultural District Designation**

The Commission focused a great deal of effort on preparing the Town to apply for Cultural District status from the Massachusetts Cultural Council (MCC). Activities toward this goal include extensive research on cultural districts and meetings with MCC about their Cultural District Initiative. In collaboration with A-TED held a public meeting at the Old Schwamb Mill where, a representative of the Concord Chamber of Commerce and Concord Center Cultural District shared her experiences in developing their cultural district. As required by MCC, a Managing Partnership (MP) was established and is comprised of the Town Libraries, Arlington Chamber of Commerce, Arlington Center for the Arts (ACA), Cyrus Dallin Art Museum, St. John's Coffeehouse, Arlington Friends of the Drama, Arlington Center Merchants' Association, Capitol Square Business Association, and Arlington Historical Society. Preliminary approval by MCC of our proposed district map and asset inventory was received by the MCC and the Libraries are facilitating and communicating the next steps of the application process.

### **Public Art Inventory**

The Commission worked with a summer intern, Will Sullivan, to produce the Town's first inventory of public art. A small amount of work remains to complete the project. An online version can be viewed on ACAC's website at [arlingtoncac.com](http://arlingtoncac.com). More detailed information on each piece of art, including photos, installation date, expected duration, property owner, artist information, materials, budget, and funding sources where applicable, is stored on Google drive.

### **Town-wide Cultural Plan**

The Commission is charged with recommending a long term Cultural Plan for the Town. The Commission has taken several steps to prepare for this process. Commission members sought advice from MCC, the Cambridge Arts Council, and Maren Brown from Maren Brown Associates in addition to conducting research on how other local communities engage in cultural planning. Commission members met with the Town's Economic Development Planner and the Metropolitan Area Planning Council (MAPC) about the possibility of a District Local Technical Assistance Grant (DLTA) to conduct a cultural planning process with MAPC. ACAC members met with Arlington's Town Manager twice to inform him about our options.

### **Arts Advocacy**

In September, ACAC co-chair spoke in support of the Arlington Center for the Arts (ACA) about the future of the Gibbs School building at the school committee meeting. ACAC also attended a strategy meeting at the ACA. ACAC has been in close touch with Linda Shoemaker, ACA's executive director, on supporting her campaign. ACAC also wrote a letter of support for the ACA in support of pole banners for Open Studios. As a result of the impending needs of the Cultural District Managing Partnership, the cultural planning process, A-TED and Arlington Public Art, ACAC co-chairs met with Arlington's Town Manager to request staff time devoted to arts and culture within the Planning and Community Development Department.

### **Coordinating Public Art Projects**

Members of ACAC convened a meeting of Arlington Public Art, Town Planning staff, and Capitol Square representatives, to coordinate potentially overlapping art projects with the needs of the proposed Cultural District. Projects include Mass. Ave. public art, a youth banner project, Capitol Square banners, and an additional potential public art and wayfinding project, recommended by the MCC, to help link the area between the East and the Center to create a single continuous Cultural District.

### **Goals for 2016**

- Facilitate a successful application process to the MCC for the area spanning East Arlington to Arlington Center to be designated a Cultural District.
- Assist in the launch of an Arlington Cultural District, if so designated by the MCC.

- Apply for a District Local Technical Assistance Grant from the MAPC and begin work on phase one of a long-term cultural plan.
- Strengthen our capacity by adding two additional members and gaining access to professional development resources through an organizational membership to Americans for the Arts.
- Continue to advocate for arts and cultural activities and institutions within the Town as well as promote Arlington as an arts and culture destination.



## Town of Arlington, Massachusetts

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### For Approval: Center Safe Travel Project - Request for Use of Parking Spaces

#### Summary:

Adam Chapdelaine, Town Manager

#### ATTACHMENTS:

	Type	File Name	Description
▢	Reference Material	Project_Request_JJPhelan.pdf	Request

**From:** "Wayne Chouinard" <WChouinard@town.arlington.ma.us>  
**To:** "Adam Chapdelaine" <achapdelaine@town.arlington.ma.us>  
**Cc:** "Mike Rademacher" <mrademacher@town.arlington.ma.us>  
**Date:** 03/17/2016 09:33 AM  
**Subject:** Staging Area Request - Arlington Center Safe Travel Project

---

Adam,

J.J. Phelan Company; contractor for the MassDOT Center Safe Travel Project has requested a temporary staging area and overnight parking spaces for equipment during the project.

Specifically, they request the area including 6 spaces at the Railroad lot closest to Uncle Sam Park for storage of material and 4 spaces at the northeast corner of the Municipal Lot at Chestnut St. As overnight parking locations for equipment.

I believe allowing this request will help expedite the progress of the project. Any methods to improve construction efficiency or simplify the schedule will ultimately reduce the overall duration of the project. Which at this location may have considerable traffic impacts.

The sooner this project can be completed, the sooner the traffic and other impacts will end.

Regards,

Wayne

Wayne A. Chouinard, P.E.  
Town Engineer  
Arlington Department of Public Works  
51 Grove Street  
Arlington, MA 02476  
(781) 316-3320

Sent from iPhone



## **Town of Arlington, Massachusetts**

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**For Approval: Authorization to Draft RFP for Sale of 1207 Mass Ave**

**Summary:**

Adam Chapdelaine, Town Manager

**ATTACHMENTS:**

Type	File Name	Description
▣ Reference Material	1207_MassAve_Memo.pdf	Memorandum to Board



**Town of Arlington  
Office of the Town Manager**

**Adam W. Chapdelaine**  
Town Manager

730 Massachusetts Avenue  
Arlington MA 02476-4908  
Phone (781) 316-3010  
Fax (781) 316-3019  
E-mail: [achapdelaine@town.arlington.ma.us](mailto:achapdelaine@town.arlington.ma.us)  
Website: [www.arlingtonma.gov](http://www.arlingtonma.gov)

**To:** Members of the Board of Selectmen

**From:** Adam Chapdelaine, Town Manager

**RE:** Request for Authorization to Develop RFP for Sale of 1207 Massachusetts Avenue

**Date:** March 17, 2016

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As the Board may recall, an RFP was issued earlier this year for the short-term lease of the Town owned property located at 1207 Massachusetts Avenue. There were no respondents to this RFP, which now prompts consideration of sale of the building as authorized by last year's Town Meeting. I am requesting that the Board authorize me, Town Counsel, and the Director of Planning & Community Development to develop an RFP for the sale of the property for presentation to the Board at a future meeting. The only specific requirement that I would like the Board's approval on is a minimum bid price of \$750,000.

If there are other specific criteria that the Board would like to see included in the RFP, I would be happy to receive and discuss that feedback at Monday's meeting. As always, please feel free to let me know if you have any questions.



## **Town of Arlington, Massachusetts**

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### **For Approval: Medical Marijuana Dispensary Community Benefit Agreement**

#### **Summary:**

Adam Chapdelaine, Town Manager

Douglas Heim, Town Counsel



## **Town of Arlington, Massachusetts**

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### **Discussion: Proposition 2.5 Override and Debt Exclusion**

#### **Summary:**

Daniel J. Dunn, Selectman



## **Town of Arlington, Massachusetts**

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### **Rehearing of Warrant Article 24: Bylaw Amendment/Camping on Public Property**

#### **Summary:**

Douglas W. Heim, Town Counsel

#### **ATTACHMENTS:**

Type	File Name	Description
▢ Reference Material	Carney_and_Goldsipe_comments.pdf	Comments from M. Goldsipe and C. Carney
▢ Reference Material	Rehearing_Camping_Out_#_24.pdf	Re-hearing W.A. #24
▢ Reference Material	M.Goldsipe_Camping_Out_article_#24_-_questions_from_AHRC.pdf	M.Goldsipe question and concerns AHRC

**From:** "Mel Goldsipe" <MGoldsipe@arlingtonhumanrights.org>  
 jcurro@alumni.tufts.edu, dianemahon@verizon.net, dunster@dandunn.org,  
 smbryne1987@gmail.com, greeleycom@aol.com, MSullivan@town.arlington.ma.us,  
**To:** "dheim@town.arlington.ma.us" <dheim@town.arlington.ma.us>,  
 "townmanager@town.arlington.ma.us" <townmanager@town.arlington.ma.us>,  
 "CBongiorno@town.arlington.ma.us" <CBongiorno@town.arlington.ma.us>,  
 fryan@town.arlington.ma.us, achapdelaine@town.arlington.ma.us  
 cccarney671@comcast.net, ghorowitz@arlingtonhumanrights.org,  
 gDiFiglia@arlingtonhumanrights.org, jloayza@arlingtonhumanrights.org,  
 mbridgett@arlingtonhumanrights.org, NMinton@arlingtonhumanrights.org,  
**Cc:** SGrossman@arlingtonhumanrights.org, sbaron@arlingtonhumanrights.org,  
 wlogan@arlingtonhumanrights.org, wlogan@rcn.com, yawa.degboe@gmail.com, "Christopher  
 Huvos" <clhuvos@verizon.net>, mkrepelka@town.arlington.ma.us, "Mel Goldsipe"  
 <MGoldsipe@arlingtonhumanrights.org>  
**Date:** 03/04/2016 11:42 PM  
**Subject:** Re: Warrant Article 24-Camping on Public Property

---

Hi everyone,

I just wanted to follow-up on Christine Carney's message about Warrant Article 24 - Camping on Public Property. I have read through [the supporting materials](#) Town Counsel submitted for the Feb. 10 Board of Selectmen meeting and watched the archived footage of the meeting. Clearly, everyone involved has the best intentions for providing a safe and pleasant experience for everyone in our Town.

I am concerned that the conversation at the BOS meeting about public camping was short and incomplete. I know that the Police and Health & Human Services worked with Town Counsel on this recommendation, but since that process wasn't detailed at the meeting and no one from the Police or HHS spoke that evening, it's unclear what that whole process looked like. That makes it difficult to decide whether to support the recommendation.

Arresting people and/or pushing them out of our Town because they are living unhoused is a worrying proposition. So I feel it's AHRC's duty to examine the process leading to the BOS vote in favor of the proposed bylaw change. I would like to know about the kinds of information gathered from other towns about how they have successfully addressed similar issues around safety and homelessness. And I want to make sure that adequate input has been sought from well-established innovative programs serving homeless populations and from LGBTQIA, mental-health, and intimate-partner abuse survivor advocates regarding this issue.

At the Feb. 10 meeting, Mr. Heim and Ms. Mahon mentioned allegations of rape and other violence at the homeless encampment by Alewife. I'm glad that those concerns are taken seriously. But it's also important to weigh problems in an encampment against similar issues in shelters, especially if referrals to shelters are the only assistance we're offering. (Perhaps we're offering more? But I have no information about that here, which is why I think additional discussion is necessary.)

For example, some people avoid shelters because of past experiences of sexual assault and other violence. And although discrimination and harassment against the trans and gender non-conforming population is now illegal in Massachusetts, that law is still fairly new. Area shelters have ongoing work to adequately train employees regarding the issue, and we can't minimize people's trauma regarding past problems. I am very concerned that we ensure that the "alternatives" we are pushing people toward are actually safer and more welcoming than where they are currently.

I am not an expert on these issues, and I am very much in support of a standard set of procedures regarding helping the unsheltered population. I just want to make sure that we're approaching the very serious issue of housing insecurity with kindness, stacks and stacks of information, and a variety of techniques and options.

Before the BOS makes a final decision about approving specific wording for this proposed bylaw change, can we have a longer discussion? Perhaps police clinician Rebecca Wolfe and someone from HHS can speak at the BOS meeting before the final vote?

Many of the specific concerns mentioned here are my own. AHRC as a whole, however, feels that criminalizing homelessness goes against Arlington's core values. We urge all parties involved to find a compassionate and responsible way to address the concerns behind this warrant article. Because the safety OF the homeless population is a much more common problem than safety FROM them.

I look forward to further discussion of this important matter.

Thanks,  
Mel

-----

Mel Goldsipe  
(she/her)  
[Human Rights Commissioner](#), Arlington, Massachusetts

[tinyurl.com/AHRCfacebook](http://tinyurl.com/AHRCfacebook)  
[twitter.com/ArlHumanRights](https://twitter.com/ArlHumanRights)

-----Original Message-----

From: "Christine Carney" <CCarney@arlingtonhumanrights.org>  
To: "jcurro@alumni.tufts.edu" <jcurro@alumni.tufts.edu>, dianemahon@verizon.net, dunster@dandunn.org, smbyrne1987@gmail.com, greeleycom@aol.com  
Cc: <cccarney671@comcast.net>, <ghorowitz@arlingtonhumanrights.org>, <gDiFiglia@arlingtonhumanrights.org>, <jloayza@arlingtonhumanrights.org>, <mbriggett@arlingtonhumanrights.org>, <MGoldsipe@arlingtonhumanrights.org>, <NMinton@arlingtonhumanrights.org>, <SGrossman@arlingtonhumanrights.org>, <sbaron@arlingtonhumanrights.org>, <wlogan@arlingtonhumanrights.org>,

<wlogan@rcn.com>, <yawa.degboe@gmail.com>, "Christopher Huvos"  
<clhuvos@verizon.net>, mkrepelka@town.arlington.ma.us  
Date: Fri, 04 Mar 2016 11:02:45 -0500  
Subject: Warrant Article 24-Camping on Public Property

Dear Board of Selectmen,

The Arlington Human Rights Commission has some serious concerns regarding Warrant Article 24-Camping on Public Property. We strongly feel that this bylaw amendment does not address the issue of homelessness we feel precipitated this warrant article. If passed it will essentially punish people for being homeless, and will not do anything to address and solve the issue.

As you will be discussing this article at the upcoming Board of Selectmen meeting. We would like an opportunity to voice our concerns at the meeting.

Thank you,

Christine Carney

**Attachments:**

File: [ATT00002.txt](#) Size: 5k Content Type: text/plain

File: [ATT00003.html](#) (Shown Inline) Size: 12k Content Type: text/html



**Town of Arlington  
Legal Department**

Douglas W. Heim  
Town Counsel

50 Pleasant Street  
Arlington, MA 02476  
Phone: 781.316.3150  
Fax: 781.316.3159  
E-mail: [dheim@town.arlington.ma.us](mailto:dheim@town.arlington.ma.us)  
Website: [www.arlingtonma.gov](http://www.arlingtonma.gov)

To: Board of Selectmen

Cc: Adam Chapdelaine, Town Manager  
John Leone, Town Moderator  
Fred Ryan, Police Chief  
Christine Bongiorno, Director of Health and Human Services  
Arlington Human Rights Commission

From: Douglas W. Heim, Town Counsel

A handwritten signature in cursive script, appearing to read "DWH", written over the printed name "Douglas W. Heim".

Date: March 18, 2016

Re: Annual Town Meeting: Re-hearing on Warrant Article #24

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I write to provide the Board of Selectmen supplementary information regarding Warrant Article 24, the proposed bylaw to prohibit camping on public lands in Arlington. Following the Board of Selectmen's initial hearing on this warrant article on February 8, 2016, individual Members of the Board, the Office of the Board, and a variety of Town officials received significant input from Town Meeting members, representatives of Town committees such as the Arlington Human Rights Commission, and community groups and stakeholders, including local faith-based organizations expressing concerns about the impact the proposed bylaw would have upon the homeless in Arlington.

Among the diverse concerns presented, a number of stakeholders believe the bylaw submitted may go too far in disallowing the unsheltered from camping on State and Town owned properties of Arlington before we adequately understand the extent and nature of the challenges

facing persons in presently known encampments. The Police Department and Health Department are receptive to these calls for additional study of the issues facing both the homeless and the community-at-large, and would value additional to opportunity to both share and receive perspective and strategies for assisting Arlington's unsheltered before further action on a camping bylaw.

As such, based upon numerous meetings with stakeholders and town personnel, it is recommended that the Board consider a "No Action" vote on this matter coupled with the creation of a Task Force to Study the Encamping Unsheltered. The Task Force, as a body created by the Selectmen, should investigate and report on the issues, resources available, challenges, and profile of homelessness in Arlington before reporting to the Selectmen findings and recommendations in advance of next year's Annual Town Warrant. Particular focus should be placed on homeless encampments in the Alewife Brook and Thorndike Field areas. Based upon the dialogue to date, a Task Force which includes Town residents, representatives of relevant Town departments, and the AHRC is recommended. Furthermore, it will also be valuable to continue consultation with relevant personnel from neighboring communities and the Somerville Homeless Coalition. I look forward to providing further detail on a potential Task Force at the Board's Meeting should the Selectmen favor such a revised proposal.

## **Article 24 - Camping on Public Property -- Questions and Concerns from AHRC**

Arlington Human Rights Commission knows that everyone in this process has good intentions. But we are very concerned that the plan put forward allows for arresting people who are living unhoused but are committing no other crime. This amendment creates a new crime--sleeping on public property--and allows the town to assess monetary fines and even arrest people for it.

**We urge you to vote No Action on Article 24 and instead create a task force to study the complex issues surrounding homelessness in Arlington.**

### **Questions regarding the specifics of the proposed bylaw amendment:**

- What is the proposed timeframe from warning 1 to warning 2 to possible arrest?
- How much would the potential fines be?
- What are the minimum and the maximum it could cost someone who is fined and arrested for failure to vacate? (The total of fines plus court costs.)
- What would the procedure be for reclaiming seized property? If someone were arrested, would the town hold their property until they were released? How long?

### **Questions and concerns for the task force to address:**

- What is the intended benefit of the proposed bylaw?
- What can we learn from how other local towns and cities are addressing homelessness?
- What do academic studies recommend as methods to address homelessness?
- How do we feel as a town that referring people to shelters essentially shifts responsibility for unhoused individuals to other cities and towns?
- How do we as a town feel about imposing fines on the homeless—essentially charging someone money for being poor?

### **Questions about how homelessness affects the Arlington community:**

- What do we know from the yearly street counts in Arlington? Should we add a second count in warmer weather, when more people are living out of doors?
- Approximately how many individuals are unhoused in Arlington currently? What's the estimate for the total number of individuals over the course of a year?
- What other services does Arlington offer besides shelter referrals?
- What physical and mental health services does Arlington offer, if any?
- Are there usually beds available at the shelters Arlington refers to?
- Does Arlington offer transportation to the shelters and intake assistance?
- What happens if a shelter is full or someone does not qualify to stay at the shelter?
- What is currently done if someone is afraid to go to a shelter or refuses for other reasons?
- At the BOS meeting, there was a mention of 3 alleged rapes at an encampment. It was implied that moving people out of the encampment would therefore make them safer. Has a comparison been done of rates of rape and sexual assault on public land in Arlington versus in the shelters we refer people to?
- Has a similar comparison been done of rates of non-sexual violence?
- At the previous BOS hearing, it was also mentioned that the encampment has created a problem with sanitation. The town should look into the feasibility of providing safe and clean sanitary facilities to those living unhoused—perhaps in the new Food Pantry building.
- What are the needs of the homeless who are living out of doors versus those living in cars or other housing-insecure situations?

**Legal issues:**

- In December, members of the Joint Committee on Housing voted to favorably recommend Bill H.1129: An Act providing a homeless bill of rights
- In *Jones v. City of Los Angeles*, the US Court of Appeals for the Ninth Circuit held that “the Eighth Amendment prohibits the City from punishing involuntary sitting, lying, or sleeping on public sidewalks that is an unavoidable consequence of being human and homeless without shelter in the City of Los Angeles.”
- In *Pottinger v. Miami*, a federal court held that punishing people for sleeping in public when they had no alternative place to sleep was a violation of their right to be free from cruel and unusual punishment under the Eighth Amendment and violated their right to travel. As a result, homeless people in Miami cannot be arrested for sleeping in public places if they have no alternative.
- The state of Colorado has declared, “Responding to the growing crisis of homelessness with criminal sanctions to push people out of public spaces and into courts and jails is costly, inhumane, ineffective, and violates basic civil, human, and Constitutional rights.”
- The National Law Center on Homelessness & Poverty has published the report “No Safe Place: The Criminalization of Homelessness in U.S. Cities,” which states: “Criminalizing homelessness violates basic human rights as well as treaties that our country has signed and ratified. In 2012, the U.S. Interagency Council on Homelessness (USICH) and the U.S. Department of Justice (DOJ) agreed, in a major joint report, *Searching out Solutions: Constructive Alternatives to the Criminalization of Homelessness*. The agencies noted that, in addition to raising constitutional issues, criminalization of homelessness may ‘violate international human rights law, specifically the Convention Against Torture and the International Covenant on Civil and Political Rights.’ Since then, the USICH has repeatedly addressed criminalization as not only a domestic civil rights violation, but as a human rights violation.” (Source: [https://www.nlchp.org/documents/No\\_Safe\\_Place](https://www.nlchp.org/documents/No_Safe_Place))

**Other comments:**

- Public land should be used primarily for the benefit of the public. A place to live is the most basic benefit public land could provide.
- This bylaw could actually increase the likelihood of future homelessness if ...
  - these arrests on their record might prevent people from accessing state and federal assistance in the future
  - these arrests make it more difficult to get hired when potential employers run a background check
  - these arrests make it more difficult to secure permanent housing, such as renting an apartment, if someone runs a background check
- Cambridge has a Homeless Outreach Program with two dedicated officers who have been liaisons to the homeless population for years and have had good results. Police Superintendent Steven Williams has said that their goal “isn’t to end homelessness. That would be unrealistic. The homeless are part of the fabric of any city. But with [our two officers] we can minimize the impact.”

There are just too many unanswered questions at this time. Implementing this measure without adequate study would be reckless.

The responsible approach is to create a task force to study the issue, identify and prevent unintended consequences, and recommend compassionate actions that benefit the entire town and that we can be proud of.



## Town of Arlington, Massachusetts

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### Articles for Review:

#### Summary:

Article 22: Bylaw Amendment/Tree Preservation Bylaw

Article 30: Transfer of Town Property/1 Gilboa Road

Article 33: Revolving Funds

Article 59: Resolution/Handicap Parking Spaces

### ATTACHMENTS:

Type	File Name	Description
Reference Material	Warrant_Article_22__30__33__59_text.docx	Warrant Article Text #22, 30, 33 and 59
Reference Material	Warrant_Article_Hearings_3.21.16_Meeting.pdf	D.Heim W.A #22,#30,#33,#59
Reference Material	03.21_16_mtg.doc	Letter sent to 10 registered voter article 59
Reference Material	W.A._#22_Comments_M._Rademacher.pdf	W.A. #22 Comments M. Rademacher
Reference Material	Before_After_Pix_Feb_2016_3-16-16_(1).docx	W.A. #22 Comments Stamps Before After Pics
Reference Material	Tree_bylaw_ARL_v7_3-14-16_SDS_clean_(1).docx	W.A. #22 Comments Stamps Tree Bylaw
Reference Material	Oldham_Rd._in_progress.pdf	W.A. #22 Comments Stamps Oldham Road
Reference Material	Tree_Bylaw_Reference_BoS_Meeting_8.17.15.pdf	W.A. #22 Comments Tree Bylaw Reference BoS Meeting 8.17.15
Reference Material	W.A._#30_Comments__Belskis.pdf	W.A. #30 Comments J. Belskis
Reference Material	W.A._#30_Comments_Conservation_Committee.pdf	W.A. #30 Comments Conservation Commission
Reference Material	W.A._#30_Comments_Open_Space.pdf	W.A. #30 Comments Open Space Committee
Reference Material	W.A._#30_Comments.pdf	W.A. #30 Comments
Reference Material	W.A._#59_Comments_M._Rademacher.pdf	W.A. #59 Comments M. Rademacher
Reference Material	W.A._#59_Comments_Disabilities_Commission.pdf	W.A. #59 Comments Disabilities Commission

**ARTICLE 22****BYLAW AMENDMENT/TREE PRESERVATION BYLAW**

To see if the Town will vote to amend the Town Bylaws to establish a Tree Preservation Bylaw to preserve or replace trees over a specific size within the setback of private property in cases of significant demolition and/or major construction, including providing enforcement measures and/or fines for non-compliance; or take any action related thereto.

(Inserted at the request of the Tree Committee)

**ARTICLE 30****TRANSFER OF TOWN PROPERTY/1 GILBOA ROAD**

To see if the Town will vote to transfer the ownership and care and custody of the land and structures located at 1 Gilboa Road, currently owned by the Town of Arlington, to the Arlington Housing Authority for the perpetual use of the same for affordable housing purposes and compliant with all terms and conditions such that the affordable housing developed and occupied thereon meets the Commonwealth's requirements for inclusion in the Town's Subsidized Housing Inventory, AND FURTHER,

to authorize the Board of Selectmen and any other municipal entity required by law, to seek the approval of the General Court, all as required by Article 97 of the Massachusetts Declaration of Rights, to remove said 1 Gilboa Road from the protections of Article 97 and, as permitted by Article 97, authorize the placement of a Conservation Restriction or other instrument protecting an equivalent or greater land area for conservation purposes identified as a portion or total of the Arlington's "Great Meadow" and located Lexington, Massachusetts, or other sufficient land area identified by the Town;

AND FURTHER, to authorize the Board of Selectmen to take whatever steps are necessary to accomplish and fulfill the goals of this Article; or take any action related thereto.

(Inserted at the request of John Belskis and ten registered voters)

**ARTICLE 33****REVOLVING FUNDS**

To see if the Town will vote to reauthorize revolving funds established under various previous votes of the Town, to hear or receive a report concerning the receipts and expenditures of same, to establish new revolving funds or to amend the votes under any previously adopted revolving funds, to appropriate a sum of money to fund same, to determine how the money shall be raised or expended; or take any action related thereto.

(Inserted by the Board of Selectmen)

**ARTICLE 59****RESOLUTION/HANDICAP PARKING SPACES**

To see if the Town will resolve to support policies that encourage the inclusion and designation of at least five percent (5%) , and no more than ten percent (10%) overall, handicapped parking spaces in any on-street public parking located in any Business District (B1,2,3,4,5), so as to facilitate access for people with disabilities; or take any action related thereto.

(Inserted at the request of the Commission on Disability)




**Town of Arlington  
Legal Department**

Douglas W. Heim  
Town Counsel

50 Pleasant Street  
Arlington, MA 02476  
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To: Board of Selectmen

Cc: Adam Chapdelaine, Town Manager  
John Leone, Town Moderator  
Michael Rademacher, Director of Public Works  
Cori Beckwith, Conservation Administrator  
Proponents of Articles

From: Douglas W. Heim, Town Counsel 

Date: March 18, 2016

Re: Annual Town Meeting Warrant Articles ##22, 30, 33, and 59

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I write to provide the Board of Selectmen a summary of the above-referenced warrant articles to assist in the Board's consideration of these articles at its upcoming hearing on March 21, 2016.

## ARTICLE 22

## BYLAW AMENDMENT/TREE PRESERVATION BYLAW

**To see if the Town will vote to amend the Town Bylaws to establish a Tree Preservation Bylaw to preserve or replace trees over a specific size within the setback of private property in cases of significant demolition and/or major construction, including providing enforcement measures and/or fines for non-compliance; or take any action related thereto.**

**(Inserted at the request of the Tree Committee)**

This article was inserted at the request of the Tree Committee, representatives of which I expect to provide supplementary materials and present details of their proposal at hearing. As the Board may recall, the Tree Committee previously sought the Selectmen's general position on developing a bylaw to curtail the unnecessary removal of trees on private property during development or expansion projects. The Board directed this Office to assist the Committee in the development of this proposed bylaw.

As such, in sum the proposed bylaw establishes a framework to require developers, homeowners, and contractors to manage projects in a manner so as to prevent excessive removal of mature trees. It is important to note at the outset that the bylaw only applies to a limited class of demolition and building projects, which can best broadly be described as new home construction, demolition of existing structures, or extensive additions to existing buildings; and further, within such projects, only qualifying trees within the setback area. When developers, owners, or contractors seek building and/or demolition project permits, they will simultaneously be required to submit a tree plan that accounts for all trees of a certain size (usually indicating maturity) noting which trees are considered "protected" under the bylaw, and which of those protect trees will either be maintained or removed and mitigated. Mitigation can be achieved either by planting the required number of new trees or by paying fees into an already established Arlington Tree Fund. The Tree Plan will be reviewed and accepted or rejected by the Town Tree Warden, who shall also be charged with ensuring the Tree Plan is followed. The Warden is also charged with enforcement for larger non-compliance using fines to be established both for removing protected trees contrary to an approved plan, and failing to submit a Tree Plan on a project that requires a plan.

The below proposed bylaw is similar to increasingly common tree protection ordinances adopted by municipalities throughout the Commonwealth, including those already in place in Lexington, Cambridge, Newton, Wellesley, and a wide variety of other communities. Comparatively, some such ordinances are more detailed and other less so. There are also different paradigms in place for balancing concerns of efficiency, enforceability, and other considerations. Here, the proposed bylaw seeks to establish the core scheme while leaving some administrative details to be determined in the interests of flexibility.

If inclined to support the Tree Committee's proposal, a vote of the Board of Selectmen would be as follows:

*VOTED: That the Title V of the Town Bylaws be and are hereby is amended to add Article 16 as follows:*

## **ARTICLE 16 TREE PROTECTION AND PRESERVATION**

### **SECTION 1. Findings and Purpose**

*The Town of Arlington finds that preservation of the tree canopy and planting of replacement trees is essential to preserving the character and aesthetic appearance of the Town and maintaining quality of life and the environment in the Town. Trees improve air quality, protect from heat and glare, reduce noise pollution, limit topsoil erosion and storm water runoff, provide natural flood control, enhance property values, contribute to the distinct character of neighborhoods, and offer natural privacy to neighbors.*

*The purpose of this By-law is to ensure appropriate management of trees within the Town of Arlington during the course of residential and commercial development. Specifically, loss of trees without mitigation due to lot clearing or excessive tree removal incident to demolition of existing buildings, construction of new buildings and/or expansion of existing buildings, poses a threat of significantly reducing Arlington's tree canopy.*

### **SECTION 2. Definitions**

*A. The following definitions shall apply to this By-law:*

*"Building Footprint" – Outline of the total area covered by a building's perimeter at ground level.*

*"Certified Arborist" – A professional arborist possessing current certification issued by the International Society of Arboriculture (I.S.A.) and/or the Massachusetts Arborists Association (M.A.A.).*

*“Caliper” – Diameter of a tree trunk (in inches) measured six inches above the ground for trees up to and including four-inch diameter, and 12 inches above the ground for larger trees.*

*“DBH (Diameter at Breast Height)” – The diameter of a tree trunk measured in inches at a height of four and a half (4 1/2) feet above the ground; or, for multiple-trunk trees, the aggregate diameters of the multiple trunks at a height of four and a half (4 1/2) feet above the ground.*

*“Demolition” – Any act of destroying, pulling down, removing or razing a building or commencing the work of total or substantial destruction of a building.*

*“Protected Tree” - As determined in writing by a Certified Arborist, any existing healthy tree on private land with a DBH of ten (10) inches or greater, located in the setback area, which does not pose an immediate hazard to person or property or is not under imminent threat of disease or insect infestation. Said writing shall be signed and dated and provided to the Tree Warden with the Tree Plan and shall be considered part of the Tree Plan.*

*“Setback Area” – The portion of the property which constitutes the minimum depth of side, rear and front yards as per the Zoning Bylaw of the Town of Arlington.*

*“Tree Fund” – An existing Town account established for the purpose of buying, planting, and maintaining trees in the Town which may receive deposit of contributions in lieu of planting new trees by property owners per Section 4 of this By-law and fines collected under Section 5 of this By-law.*

*“Tree Plan” – A document prepared, signed and dated by a Certified Arborist detailing an owner’s proposed management of Protected Trees, delineating which trees will be retained and which trees are reasonably expected to be removed or at risk of being damaged, as well as how such removal shall be mitigated and how such damage shall be prevented.*

*“Tree Removal” – The cutting down of a tree, or any other act that causes a tree to die or will cause a tree to die within a three (3) year period, as determined by the Tree Warden.*

- B. Additional definitions may be provided in rules and regulations to be approved by the Board of Selectmen after consultation with the Tree Warden and the Tree Committee where consistent with the intent and efficient execution of this By-law.*

### **SECTION 3. Applicability**

- A. The requirements of this By-law and all regulations promulgated in service thereof apply to the following circumstances:*

- (1) Proposed demolition of an existing residential or non-residential structure;*

(2) *Proposed construction on a developed lot which would result in an increase of 50 percent or more of the total building footprint of the new structure(s) when compared to the total footprint of pre-existing structures; or*

(3) *Proposed construction of any scope on a lot with no residential or non-residential structure on it.*

B. *Sites under the jurisdiction of the Arlington Redevelopment Board ("ARB") or the ARB as the Planning Board, the Zoning Board of Appeals, or the Conservation Commission pursuant to Arlington's Wetlands Protection By-law (Title V, Article 8) may waive the requirements of this By-law in full or in part where such waiver serves the interests of the community and the reasons therefore are memorialized by such bodies.*

C. *The requirements of this By-law shall not apply to trees defined as Public Shade Trees under G.L. c. 87 § 1.*

#### **SECTION 4. Procedures and Requirements for the Protection and Preservation of Trees**

A. *Removal of Protected Trees as defined in this By-law on applicable sites shall be prohibited unless such removal is authorized by a written approval of commencement of work and a permit has been issued pursuant to Section 4.C of this By-law.*

B. *In all instances of construction or demolition as defined and applicable herein, the owner of the property shall submit to the Tree Warden concurrent with an application for a building or demolition permit: (i) a site plan drawn and stamped by a surveyor on which a Certified Arborist has shown all trees on the property of ten (10)-inch DBH or greater; the site plan may be the same plan submitted for other purposes so long as it clearly delineates all trees of ten (10)-inch DBH or greater; and (ii) a Tree Plan as defined in this By-law. Additionally, if any Protected Trees were removed during the 12 months preceding the application for a building or demolition permit, such trees must be accounted for within the Tree Plan to the best of the owner's and arborist's ability, and such trees shall be mitigated pursuant to paragraph 4.B(2), below.*

(1) *Before submission of the Tree Plan, the owner shall clearly mark the Protected Trees on the property itself, showing which trees shall be removed and which trees shall be retained pursuant to the Tree Plan.*

(2) *Mitigation of Tree Removal as defined in this By-law shall be as follows: Each inch of the DBH of the Protected Tree(s) removed pursuant to the Tree Plan shall be replaced on the property by an inch of DBH of a new tree or trees of a species native to the area no later than ninety (90) days after issuance of the Certificate of Occupancy by the Town. New trees shall have a minimum caliper of two and a half (2.5) inches. Alternatively, the property owner, within 30 days after issuance by the Tree Warden of the written approval for commencement of work, shall contribute to the Tree Fund amounts to plant trees totaling the DBH of the Protected Trees removed from the property. Said amounts shall be designated by rules and regulations which will be based on current cost of labor, trees and materials to plant trees. Said rules and regulations shall be promulgated by the Board of Selectmen after*

*consultation with the Tree Warden and the Tree Committee. The Town shall use these funds to plant trees totaling the DBH of the Protected Trees removed from the property. If damage to a Protected Tree causes the tree to die within three years after completion of the work on the property, the owner shall be responsible to mitigate the loss as set forth in this paragraph.*

*(3) Prevention of tree damage shall be as follows: Prior to commencement of work, all reasonable measures consistent with best practices shall be taken to prevent damage to Protected Trees remaining on the property.*

*(4) The submission of a site plan and Tree Plan to the Tree Warden shall be accompanied by a fee to be designated by rules and regulations to be promulgated by the Board of Selectmen after consultation with the Tree Warden and the Tree Committee. Said fee shall be based on anticipated costs associated with review of the site plan and Tree Plan and related tasks prior to issuance by the Tree Warden of the written approval for commencement of work, as well as follow-up work to ensure compliance with the Tree Plan.*

*C. The Tree Warden shall review all submitted site plans and Tree Plans and, further, conduct a site visit prior to demolition, construction, site preparation, removal of Protected Trees, or any other work on the property. If the Tree Plan is consistent with the mitigation and damage prevention requirements set forth in this By-law and associated rules and regulations, the Tree Warden shall certify so in writing within 10 business days, approving the commencement of work for the purposes of this By-law, and shall issue a permit allowing the commencement of work. Said permit shall be prominently displayed on the property. If the Tree Plan as submitted does not satisfy the requirements of this By-law and associated rules and regulations, the Tree Warden shall so notify the applicant with recommendations to achieve compliance.*

*(1) The Tree Warden shall be permitted access to the site at any time and at the time construction is substantially complete to verify and ensure compliance with the approved Tree Plan.*

*D. An owner aggrieved of the Tree Warden's determination on a Tree Plan, or with respect to the need for such a plan, may appeal such determinations to the Board of Selectmen at a public hearing. A written decision on such appeals shall be rendered within 14 business days of the close of such hearing(s).*

## **Section 5. Enforcement and Fines**

*A. Following a determination of violation by the Tree Warden, an owner shall be subject to the fines for the activities listed below, to be paid into the Tree Fund, said fines to be set forth in rules and regulations promulgated by the Board of Selectmen after consultation with the Tree Warden and the Tree Committee. Said activities are:*

*(1) Failure to submit a site plan and Tree Plan prior to commencement of applicable demolition, construction, lot clearing or any other work on the site.*

(2) Failure to obtain written approval for commencement of work per Section 4.C prior to commencement of applicable demolition, construction, lot clearing or any other work on the site.

(3) Removal of a Protected Tree which is not identified for removal in the Tree Plan. There shall be a fine for each Protected Tree removed.

(4) Damage to a Protected Tree which is identified for damage prevention in the Tree Plan. There shall be a fine for each Protected Tree damaged.

(5) Damage to a Protected Tree which is not identified for damage prevention in the Tree Plan. There shall be a fine for each Protected Tree damaged.

(6) Failure to mitigate tree removal within the time set forth in Section 4.B of this By-law. There shall be a fine for each day until mitigation is achieved.

B. Wherever there exists reasonable cause to believe that an owner or their agent willfully violates this By-Law or an approved Tree Plan, the Town may institute a civil action for injunctive relief in a court of competent jurisdiction ordering appropriate parties to correct a condition in violation, or ceasing an unlawful use of the property.

C. An owner aggrieved of the Tree Warden's determination of violation(s) may appeal such determination(s) to the Board of Selectmen at a public hearing.

## **Section 6. Administration**

The Board of Selectmen, after consultation with the Tree Warden and the Tree Committee, shall establish such further administrative rules, regulations, and procedures for the review and approval of Tree Plans, as well as enforcement determinations. Failure to promulgate rules and regulations will not have the effect of suspending or invalidating this By-law.

## **Section 7. Severability Clause**

If any provision of this By-law is declared unconstitutional or illegal by final judgment, order or decree of the Supreme Judicial Court of the Commonwealth, the validity of the remaining provisions of this By-law shall not be affected thereby.

## **Section 8. Relationship to Other Laws**

Nothing in this By-law shall be construed to restrict, amend, repeal, or otherwise limit the application or enforcement of existing Town of Arlington By-laws or laws of the Commonwealth of Massachusetts.

## ARTICLE 30

## TRANSFER OF TOWN PROPERTY/1 GILBOA ROAD

**To see if the Town will vote to transfer the ownership and care and custody of the land and structures located at 1 Gilboa Road, currently owned by the Town of Arlington, to the Arlington Housing Authority for the perpetual use of the same for affordable housing purposes and compliant with all terms and conditions such that the affordable housing developed and occupied thereon meets the Commonwealth's requirements for inclusion in the Town's Subsidized Housing Inventory, AND FURTHER,**

**to authorize the Board of Selectmen and any other municipal entity required by law, to seek the approval of the General Court, all as required by Article 97 of the Massachusetts Declaration of Rights, to remove said 1 Gilboa Road from the protections of Article 97 and, as permitted by Article 97, authorize the placement of a Conservation Restriction or other instrument protecting an equivalent or greater land area for conservation purposes identified as a portion or total of the Arlington's "Great Meadow" and located Lexington, Massachusetts, or other sufficient land area identified by the Town;**

**AND FURTHER, to authorize the Board of Selectmen to take whatever steps are necessary to accomplish and fulfill the goals of this Article; or take any action related thereto.**

**(Inserted at the request of John Belskis and ten registered voters)**

My understanding is that the proponent of Article 30 will present to the Board on the purpose and rationale for the proposed action and further, provide materials in support thereof. I also expect the Conservation Commission will provide you its position on the article as the body charged with overall protection of the area given that the series of parcels that comprise Mt. Gilboa were acquired over many years primarily for conservation purposes.

Foremost, the apparent purpose of this article is to convert and dedicate the individual parcel on Mt. Gilboa (approximately 1.79 acres) on which a Town owned residential home is presently already located, to deed-restricted affordable housing. By doing so, it must be acknowledged that the Town's 1.5% safe harbor status relative to G.L. c. 40B comprehensive permit applications would be bolstered (the Town presently calculates that 1.53% of appropriate zoned residential, commercial and industrial land is dedicated to affordable housing) by a

successful conversion as intended by the proponent. However, it must also be acknowledged that positive action by 2/3rds of Town Meeting to authorize a transfer of the land to the Arlington Housing Authority is only one required piece to execute the proponent's proposal.

Of the additional steps required to take any parcel out of Article 97 protection and re-dedicated it for any different purpose than conservation (in this case, deed-restricted affordable housing) the most significant are:

- Obtaining unanimous consent of the Town's Conservation Commission to amend the Article 97 restriction;
- Passing special legislation to authorize the amendment of Article 97 status of the parcel, (likely including a land swap) by a 2/3<sup>rd</sup>s Standing Vote of the Legislature;
- Identifying land of equal or greater size and value to "swap" with the parcel in question, thereby placing an Article 97 restriction on such land; and
- Obtaining Executive Office of Environmental Affairs approval for the land disposition according to their processes.

Hence, the proposal, while feasible, requires a number of significant hurdles within and outside Arlington to be cleared, each with varying degrees of complexity and uncertainty even if Town Meeting is inclined toward favorable action. To that end, it must be recognized that at its March 3, 2016 meeting, the Conservation Commission voted to resolve not to support any amendment to the Article 97 status of the Mt. Gilboa parcels. Thus, any action by Town Meeting on this article is likely, if not certainly rendered moot.

## **ARTICLE 33**

## **REVOLVING FUNDS**

**To see if the Town will vote to reauthorize revolving funds established under various previous votes of the Town, to hear or receive a report concerning the receipts and expenditures of same, to establish new revolving funds or to amend the votes under any previously adopted revolving funds, to appropriate a sum of money to fund same, to determine how the money shall be raised or expended; or take any action related thereto.**

**(Inserted by the Board of Selectmen)**

As previously commented, this article, tabled at the February 10, 2014 Board of Selectmen meeting is a standard annual warrant article. The Board should receive proposed votes from the Comptroller.

## **ARTICLE 59**

## **RESOLUTION/HANDICAP PARKING SPACES**

**To see if the Town will resolve to support policies that encourage the inclusion and designation of at least five percent (5%) , and no more than ten percent (10%) overall, handicapped parking spaces in any on-street public parking located in any Business District (B1,2,3,4,5), so as to facilitate access for people with disabilities; or take any action related thereto.**

**(Inserted at the request of the Commission on Disability)**

This article was submitted at the request of the Commission on Disability and was accompanied by a nearly identical 10-registered voter article withdrawn as duplicative. A draft resolution has been submitted for your specific review. While I expect members of the Commission and/or independent proponents of the resolution will present supporting materials and information at hearing, the intent of the article on its face is to encourage the clear identification and designation a minimum number (or percentage) of handicap parking spots in business districts of Arlington, primarily along the Massachusetts Avenue Corridor.

Given the Board's role as Parking Commissioners, Town Meeting cannot bind the Selectmen on this subject. The Town is required to comply with state and federal accessibility laws, and there has been credible suggestion that similar requirements could be mandated in the future as substantial discussion among federal and state authorities on this score continues. At present however, no such mandate exists. Accordingly, if favorable action is garner from Town Meeting the proposed resolution is best framed as a non-binding policy position for this Board's consideration.

## OFFICE OF THE BOARD OF SELECTMEN

KEVIN F. GREELEY, CHAIR  
DIANE M. MAHON, VICE CHAIR  
DANIEL J. DUNN  
STEVEN M. BYRNE  
JOSEPH A. CURRO, JR.



730 MASSACHUSETTS AVENUE  
TELEPHONE  
781-316-3020  
781-316-3029 FAX

TOWN OF ARLINGTON  
MASSACHUSETTS 02476-4908

March 9, 2016

Dear Registered Voter:

The Board of Selectmen will meet on Monday, March 21, 2016 at 7:15 p.m., Selectmen's Chambers, 2<sup>nd</sup> Floor, Town Hall, to discuss the Warrant Article petition that you signed.

Article 30      Transfer of Town Property/1 Gilboa Road

Please feel free to contact Mary Ann or Fran in my office at the above number to confirm or if you require any further information.

Thank you.

Very truly yours,  
BOARD OF SELECTMEN

Marie A. Krepelka  
Board Administrator

MAK:fr



PUBLIC WORKS DEPARTMENT  
TOWN OF ARLINGTON  
51 Grove Street, Arlington, Massachusetts 02476  
Phone: (781) 316-3104 Fax: (781) 316-3281

Memo to: Board of Selectmen

From: Mike Rademacher, DPW Director

Date: March 17, 2016

Subject: Tree Preservation Bylaw

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Honorable Board of Selectmen-

I have reviewed the proposed Tree Protection and Preservation Bylaw and have the following comments:

My understanding, in summary, is that this By-law is intended to protect healthy trees, with a diameter of 10 inches or more, on private property within a property's setback area.

Additionally the By-law would apply to building projects which involve demolition of an existing structure, any new construction on a vacant lot or projects which increase a building's footprint by 50%.

I recently sat with Mike Byrne and we determined that last year about 35-40 permits were issued which would have projects requiring compliance under this proposed By-law (about 25-30 demos and about 10-15 building additions).

Based on the above understandings, I have some concern on the added workload this By-law will generate on an already strained Tree Department. I would estimate that each project requiring compliance under the proposed By-law would take about a days' time total of the Tree Warden's attention. This effort will include site visits to review the initial plans, periodic checks during construction, identification of violations, imposing fines, and final review or acceptance. Ultimately this work could add up to a full day's effort every week to every other week.

As currently written, there is no entity identified in the by-law to ensure that tree plans are submitted in the Tree Warden. If Public Works were to become responsible to chase the projects down because they are not proactively coming to us, the total effort to administer this proposed By-law could approach a solid day a week.

Public Works is currently looking to expand the Tree Warden position from responsibilities added to an existing staff position to a separate part-time position. This change is being sought in order to add more responsibilities to the current expectation of the role. We have not been too successful to date finding a candidate for the part time work. If we decide to go back to adding the Tree Warden duties to an existing staff member, including the additional responsibilities of the proposed By-law will be very challenging. If the By-law is adopted, it will be all that more important to fill the part time Tree Warden position and possibly require adding hours to the position over what is currently being sought.

I do not offer the above as a criticism of the By-law or in opposition to it. I simply want to express my concerns over the increases in staff time which will be required to ensure it is successful.

Sincerely,

Michael Rademacher

## Tree Preservation Bylaw: Examples of Canopy Loss

### Oldham Road (#1)

- 2007



- 2015



## Tree Preservation Bylaw: Examples of Canopy Loss

- 2015 (Oldham Road (#1) continued)



## Tree Preservation Bylaw: Examples of Canopy Loss

2007

Spring Valley Street



Image capture: Aug 2007 © 2016 Google

- During Construction – 2014/2015



## Tree Preservation Bylaw: Examples of Canopy Loss

Oldham Road (#2)

- 2007



- 2015



## Tree Preservation Bylaw: Examples of Canopy Loss

(Oldham Road (#2) continued)

- 2007



Image capture: Aug 2007 © 2016 Google

- 2012

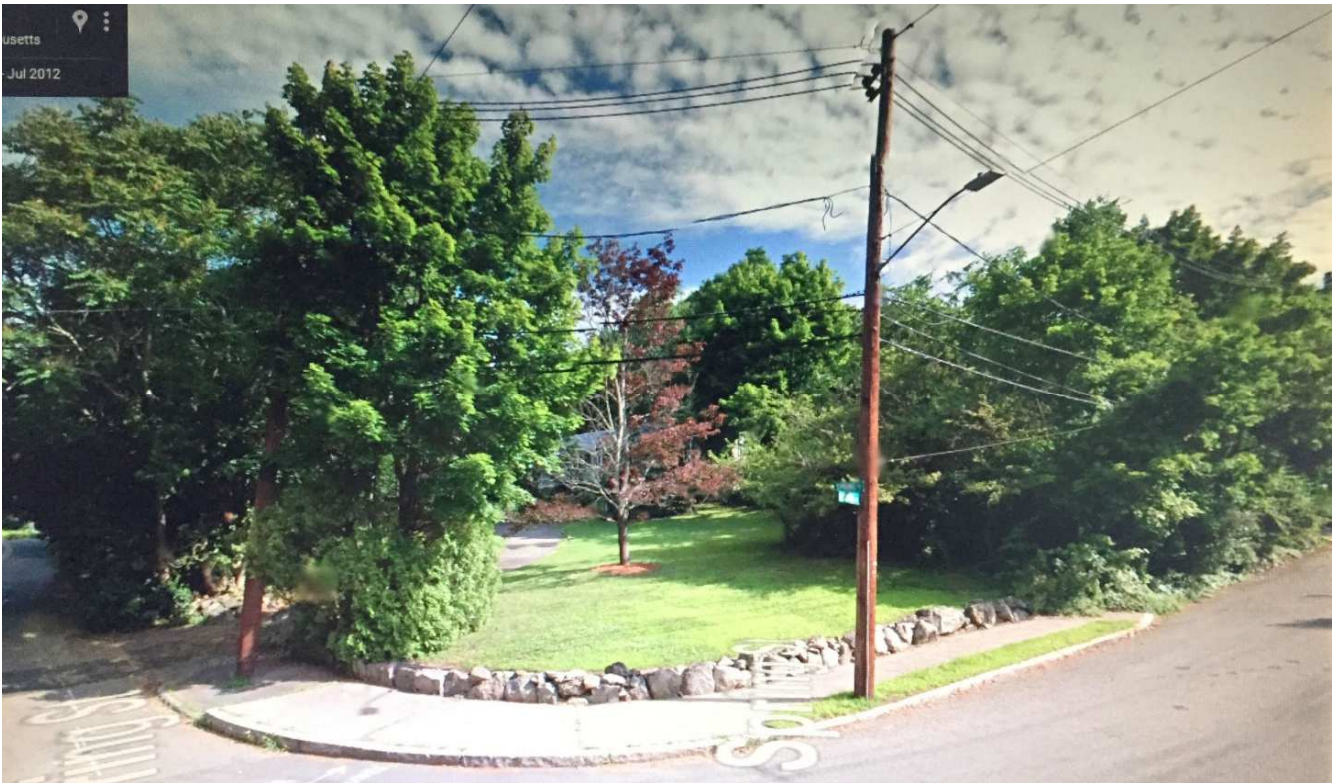


Image capture: Oct 2012 © 2016 Google

## Tree Preservation Bylaw: Examples of Canopy Loss

### Hillsdale Road

- 2012



- 2015



## Tree Preservation Bylaw: Examples of Canopy Loss

Wachusett Avenue (#1)

- 2007



- 2016



## Tree Preservation Bylaw: Examples of Canopy Loss

Appleton Street – (north end)

- 2012



Appleton Road (south end)



Image capture: Oct 2012 © 2016 Google

## Tree Preservation Bylaw: Examples of Canopy Loss

- 2016

Appleton Street (north and south ends)



## Tree Preservation Bylaw: Examples of Canopy Loss

### Mountain Avenue

- 2007



Image capture: Aug 2007 © 2016 Google

- 2015



## Tree Preservation Bylaw: Examples of Canopy Loss

### Overlook Road

- 2012



Image capture: Aug 2012 © 2016 Google

- 2015



## Tree Preservation Bylaw: Examples of Canopy Loss

Overlook Road (continued) – view from Ridge Street

- 2012



- 2015



## Tree Preservation Bylaw: Examples of Canopy Loss

Oldham Road (#4)

- 2012



- 2016



## Tree Preservation Bylaw: Examples of Canopy Loss

### Oldham Road (#4) (continued)

- 2007



Image capture: Aug 2007 © 2016 Google

- 2016



## Tree Preservation Bylaw: Examples of Canopy Loss

### Wachusett Avenue (#2)

- 2012



Image capture: Oct 2012 © 2016 Google

- 2016



11/20/15: DWH (1st draft) (Doug Heim, author)  
02/17/16: SDS (2nd draft) (Tree bylaw subcommittee)  
02/18/16: SDS (3rd draft) (Tree bylaw subcommittee)  
02/21/16: SDS (4th draft) (Tree bylaw subcommittee)  
02/23/16: SDS (5th draft-FINAL for DWH) (Tree bylaw subcommittee)  
03/01/16: SDS (6th draft) (Tree bylaw subcommittee)  
03/14/16: SDS (7th draft) (Tree bylaw subcommittee)

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## **ARTICLE 16 TREE PROTECTION AND PRESERVATION**

### **SECTION 1. Findings and Purpose**

The Town of Arlington finds that preservation of the tree canopy and planting of replacement trees is essential to preserving the character and aesthetic appearance of the Town and maintaining quality of life and the environment in the Town. Trees improve air quality, protect from heat and glare, reduce noise pollution, limit topsoil erosion and storm water runoff, provide natural flood control, enhance property values, contribute to the distinct character of neighborhoods, and offer natural privacy to neighbors.

The purpose of this By-law is to ensure appropriate management of trees within the Town of Arlington during the course of residential and commercial development. Specifically, loss of trees without mitigation due to lot clearing or excessive tree removal incident to demolition of existing buildings, construction of new buildings and/or expansion of existing buildings, poses a threat of significantly reducing Arlington's tree canopy.

### **SECTION 2. Definitions**

A. The following definitions shall apply to this By-law:

"Building Footprint" – Outline of the total area covered by a building's perimeter at ground level.

"Certified Arborist" – A professional arborist possessing current certification issued by the International Society of Arboriculture (I.S.A.) and/or the Massachusetts Arborists Association (M.A.A.).

"Caliper" – Diameter of a tree trunk (in inches) measured six inches above the ground for trees up to and including four-inch diameter, and 12 inches above the ground for larger trees.

"DBH (Diameter at Breast Height)" – The diameter of a tree trunk measured in inches at a height of four and a half (4 1/2) feet above the ground; or, for multiple-trunk trees, the aggregate diameters of the multiple trunks at a height of four and a half (4 1/2) feet above the ground.

"Demolition" – Any act of destroying, pulling down, removing or razing a building or commencing the work of total or substantial destruction of a building.

“Protected Tree” - As determined in writing by a Certified Arborist, any existing healthy tree on private land with a DBH of ten (10) inches or greater, located in the setback area, which does not pose an immediate hazard to person or property or is not under imminent threat of disease or insect infestation. Said writing shall be signed and dated and provided to the Tree Warden with the Tree Plan and shall be considered part of the Tree Plan.

“Setback Area” – The portion of the property which constitutes the minimum depth of side, rear and front yards as per the Zoning Bylaw of the Town of Arlington.

“Tree Fund” – An existing Town account established for the purpose of buying, planting, and maintaining trees in the Town which may receive deposit of contributions in lieu of planting new trees by property owners per Section 4 of this By-law and fines collected under Section 5 of this By-law.

“Tree Plan” – A document prepared, signed and dated by a Certified Arborist detailing an owner’s proposed management of Protected Trees, delineating which trees will be retained and which trees are reasonably expected to be removed or at risk of being damaged, as well as how such removal shall be mitigated and how such damage shall be prevented.

“Tree Removal” – The cutting down of a tree, or any other act that causes a tree to die or will cause a tree to die within a three (3) year period, as determined by the Tree Warden.

B. Additional definitions may be provided in rules and regulations to be approved by the Board of Selectmen after consultation with the Tree Warden and the Tree Committee where consistent with the intent and efficient execution of this By-law.

### **SECTION 3. Applicability**

A. The requirements of this By-law and all regulations promulgated in service thereof apply to the following circumstances:

- (1) Proposed demolition of an existing residential or non-residential structure;
- (2) Proposed construction on a developed lot which would result in an increase of 50 percent or more of the total building footprint of the new structure(s) when compared to the total footprint of pre-existing structures; or
- (3) Proposed construction of any scope on a lot with no residential or non-residential structure on it.

B. Sites under the jurisdiction of the Arlington Redevelopment Board (“ARB”) or the ARB as the Planning Board, the Zoning Board of Appeals, or the Conservation Commission pursuant to Arlington’s Wetlands Protection By-law (Title V, Article 8) may waive the requirements of this By-law in full or in part where such waiver serves the interests of the community and the reasons therefore are memorialized by such bodies.

C. The requirements of this By-law shall not apply to trees defined as Public Shade Trees under G.L. c. 87 § 1.

#### **SECTION 4. Procedures and Requirements for the Protection and Preservation of Trees**

A. Removal of Protected Trees as defined in this By-law on applicable sites shall be prohibited unless such removal is authorized by a written approval of commencement of work and a permit has been issued pursuant to Section 4.C of this By-law.

B. In all instances of construction or demolition as defined and applicable herein, the owner of the property shall submit to the Tree Warden concurrent with an application for a building or demolition permit: (i) a site plan drawn and stamped by a surveyor on which a Certified Arborist has shown all trees on the property of ten (10)-inch DBH or greater; the site plan may be the same plan submitted for other purposes so long as it clearly delineates all trees of ten (10)-inch DBH or greater; and (ii) a Tree Plan as defined in this By-law. Additionally, if any Protected Trees were removed during the 12 months preceding the application for a building or demolition permit, such trees must be accounted for within the Tree Plan to the best of the owner's and arborist's ability, and such trees shall be mitigated pursuant to paragraph 4.B(2), below.

(1) Before submission of the Tree Plan, the owner shall clearly mark the Protected Trees on the property itself, showing which trees shall be removed and which trees shall be retained pursuant to the Tree Plan.

(2) Mitigation of Tree Removal as defined in this By-law shall be as follows: Each inch of the DBH of the Protected Tree(s) removed pursuant to the Tree Plan shall be replaced on the property by an inch of DBH of a new tree or trees of a species native to the area no later than ninety (90) days after issuance of the Certificate of Occupancy by the Town. New trees shall have a minimum caliper of two and a half (2.5) inches. Alternatively, the property owner, within 30 days after issuance by the Tree Warden of the written approval for commencement of work, shall contribute to the Tree Fund amounts to plant trees totaling the DBH of the Protected Trees removed from the property. Said amounts shall be designated by rules and regulations which will be based on current cost of labor, trees and materials to plant trees. Said rules and regulations shall be promulgated by the Board of Selectmen after consultation with the Tree Warden and the Tree Committee. The Town shall use these funds to plant trees totaling the DBH of the Protected Trees removed from the property. If damage to a Protected Tree causes the tree to die within three years after completion of the work on the property, the owner shall be responsible to mitigate the loss as set forth in this paragraph.

(3) Prevention of tree damage shall be as follows: Prior to commencement of work, all reasonable measures consistent with best practices shall be taken to prevent damage to Protected Trees remaining on the property.

(4) The submission of a site plan and Tree Plan to the Tree Warden shall be accompanied by a fee to be designated by rules and regulations to be promulgated by the Board of Selectmen after consultation with the Tree Warden and the Tree Committee. Said fee shall be based on anticipated costs associated with review of the site plan and Tree Plan and related tasks prior to issuance by the Tree Warden of the written approval for commencement of work, as well as follow-up work to ensure compliance with the Tree Plan.

C. The Tree Warden shall review all submitted site plans and Tree Plans and, further, conduct a site visit prior to demolition, construction, site preparation, removal of Protected Trees, or any other work on the property. If the Tree Plan is consistent with the mitigation and damage prevention requirements set forth in this By-law and associated rules and regulations, the Tree Warden shall certify so in writing within 10 business days, approving the commencement of work for the purposes of this By-law, and shall issue a permit allowing the commencement of work. Said permit shall be prominently displayed on the property. If the Tree Plan as submitted does not satisfy the requirements of this By-law and associated rules and regulations, the Tree Warden shall so notify the applicant with recommendations to achieve compliance.

(1) The Tree Warden shall be permitted access to the site at any time and at the time construction is substantially complete to verify and ensure compliance with the approved Tree Plan.

D. An owner aggrieved of the Tree Warden's determination on a Tree Plan, or with respect to the need for such a plan, may appeal such determinations to the Board of Selectmen at a public hearing. A written decision on such appeals shall be rendered within 14 business days of the close of such hearing(s).

## **Section 5. Enforcement and Fines**

A. Following a determination of violation by the Tree Warden, an owner shall be subject to the fines for the activities listed below, to be paid into the Tree Fund, said fines to be set forth in rules and regulations promulgated by the Board of Selectmen after consultation with the Tree Warden and the Tree Committee. Said activities are:

(1) Failure to submit a site plan and Tree Plan prior to commencement of applicable demolition, construction, lot clearing or any other work on the site.

(2) Failure to obtain written approval for commencement of work per Section 4.C prior to commencement of applicable demolition, construction, lot clearing or any other work on the site.

(3) Removal of a Protected Tree which is not identified for removal in the Tree Plan. There shall be a fine for each Protected Tree removed.

(4) Damage to a Protected Tree which is identified for damage prevention in the Tree Plan. There shall be a fine for each Protected Tree damaged.

(5) Damage to a Protected Tree which is not identified for damage prevention in the Tree Plan. There shall be a fine for each Protected Tree damaged.

(6) Failure to mitigate tree removal within the time set forth in Section 4.B of this By-law. There shall be a fine for each day until mitigation is achieved.

B. Wherever there exists reasonable cause to believe that an owner or their agent willfully violates this By-Law or an approved Tree Plan, the Town may institute a civil action for injunctive relief in a court of competent jurisdiction ordering appropriate parties to correct a condition in violation, or ceasing an unlawful use of the property.

C. An owner aggrieved of the Tree Warden's determination of violation(s) may appeal such determination(s) to the Board of Selectmen at a public hearing.

#### **Section 6. Administration**

The Board of Selectmen, after consultation with the Tree Warden and the Tree Committee, shall establish such further administrative rules, regulations, and procedures for the review and approval of Tree Plans, as well as enforcement determinations. Failure to promulgate rules and regulations will not have the effect of suspending or invalidating this By-law.

#### **Section 7. Severability Clause**

If any provision of this By-law is declared unconstitutional or illegal by final judgment, order or decree of the Supreme Judicial Court of the Commonwealth, the validity of the remaining provisions of this By-law shall not be affected thereby.

#### **Section 8. Relationship to Other Laws**

Nothing in this By-law shall be construed to restrict, amend, repeal, or otherwise limit the application or enforcement of existing Town of Arlington By-laws or laws of the Commonwealth of Massachusetts.

In progress Oldham Road



**BEFORE**



## Activity in Progress: February 2016



In progress Oldham Road



In progress Oldham Road



## **MEMORANDUM**

To: Arlington Board of Selectmen

From: Susan Stamps, Arlington Tree committee

Date: August 17, 2015

Re: Tree Committee appearance at 8/17/15 Board of Selectmen meeting to discuss the urgent need for a bylaw regulating removal of trees on private property

It has come to the Tree committee's attention that residents throughout the town of Arlington are concerned about removal of trees on private property in their neighborhoods. Increasing unchecked elimination of trees during development has dramatically changed neighborhoods to their detriment and left residents wondering how the town could allow this to happen. Other towns, nearby and across the country, have restrictions and oversight of tree removals on private property during development, but Arlington has none.<sup>1</sup> The Tree Committee feels regulation is urgently needed as soon as possible and asks that the Board of Selectmen work with the Tree Committee to prepare a bylaw to be presented to the 2015 fall special Town Meeting (if there is one) or 2016 annual Town Meeting. If there are interim rules that the Town can adopt, we urge that the Board do that, too.

We have done some research as to area towns and find that Lexington, Cambridge, Brookline, Newton, Wellesley and other towns regulate the removal of trees on private property. These towns' regulations do not apply to a homeowner's removal of a tree or two, but, rather to major construction projects, such as a new house or a large addition, and only to trees of a certain size within a defined setback. I attach the tree bylaws of several towns with this memorandum as examples of what we feel is critically needed in Arlington.

The newly adopted Arlington Master Plan recognizes the importance of trees to the quality of life in Arlington and thus the need to protect them - whether on public or private property.

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<sup>1</sup> Removal of trees on public property (owned by the town) is governed by the Public Shade Tree law, MGL c. 87

Arlington Master Plan, page iii, Town Goals, Article 4 "The Environment" : "...

Recognizing the fragility of our natural resources, we must ensure that Arlington's residential areas, commercial centers, and infrastructure are developed in harmony with environmental concerns....." [emphasis added].

Arlington Master Plan, page 29, Section 3, Land Use - sidebar Master Plan goals for land use: "Encourage development that enhances the quality of Arlington's natural resources and built environment."

Arlington Master Plan, page 131, Section 8, Natural Resources and Open Space - sidebar Master Plan goals for natural resources & open space: "Ensure that Arlington's neighborhoods, commercial areas, and infrastructure are developed in harmony with natural resource concerns." [emphasis added] and "Value, protect, and enhance the physical beauty and natural resources of Arlington."

Arlington Master Plan, page 188, Implementation Program: Summary, #42: "Study methods of regulating the removal of mature trees on private property; research and consider methods used in other communities."

Arlington Master Plan, page 188, Implementation Program: Summary, #43: "Consider establishing Neighborhood Conservation Districts with design review standards for architecture, mature trees and landscaping, open space, walkways, and other features."

In closing, the Tree Committee appreciates that the Master Plan supports regulating removal of trees on private property, but the urgency of the need for regulation is not highlighted (it states a "mid-term" goal, and is about "studying" and "considering" regulations). On the contrary, the Tree committee, echoing the concerns of residents, feels the need for regulation is immediate and urgent and should be a top priority for the town. We hope the Board of Selectmen will agree and work with us to protect our beautiful, leafy Arlington neighborhoods by having an appropriate tree bylaw passed at the fall 2015 special Town Meeting or, at the latest, the 2016 annual town meeting.

See next page for reasons why trees are critical to the quality of life in Arlington.

## Why should the Town protect Arlington's trees?

Mature trees are key to the livability of the Town of Arlington. They:

Have aesthetic appeal

Contribute to the distinct character of neighborhoods

Improve air quality

Provide glare and heat protection

Reduce noise

Aid in the stabilization of soil

Provide natural flood and climate control

Create habitats for wildlife

Enhance property values

Provide natural privacy to neighbors.

# COMPARISON OF TREE BY LAWS BY TOWN

Prepared by Larry Englehardt for Arlington Tree Committee  
rev. June 9, 2015. Edited 8/11/2015 MEA

TOPIC	ARLINGTON	LEXINGTON	WINCHESTER	SOMERVILLE	CAMBRIDGE	BELMONT	BROOKLINE	NEWTON	WESTON	WELLESLEY	NORTH ANDOVER
TREE BYLAW OR REGULATION	NO	YES	YES, (Article 4)	YES, (Article VI Sect. 12)	YES (Chapter 866 Tree Protection of the Cambridge Municipal Code)	YES	YES For Large Special Projects on Private Land (through Design Review).	YES	YES	YES	Part of Wetland Protection Bylaw
DATE ADOPTED		2001	2013	2009	2004 (amended)	~ 2005	Ordinance for private land was considered in 2005 or 2006. Decided not to have a separate bylaw but some protection was incorporated in Zoning Bylaw for Special Projects Only.	Updated 2014	Voted in May 2015	2011	
PROTECTS PRIVATE LOT TREES	NO	YES (only within setbacks) Applies to trees removed 12 months prior.	NO (was discussed but too much opposition)	NO. Draft Sample Ordinance for Tree Preservation Recommended was in Urban Forest Management Plan, But Mayor was not supportive, and never pursued. NEVERTHELESS: 1) Site Design Review Chs	YES (requires tree study, including tree survey, tree protection plan, mitigation plan including replacement trees or funding) BUT It may be limited to projects requiring special permits	NO. 2011 Proposal by SUSTAINABLE BELMONT was dropped.	YES. (Have tree protection in Zoning Bylaws in Section 5.09 Design Review for Large Special Projects. Zoning Bylaw states "Preservation of Trees and Landscapes" and other landscape features shall be preserved in a natural state, insofar as practicable)	YES (Removal requires tree permit and tree plan)	YES Article limits clear cutting of lots. ALSO has a demolition delay by law. AND Existing Design/Planning Guidelines for Homes Built Under RGFA (Large Houses) and Scenic Road Provisions of the Zoning By-Law required increases existing structure footprint by 50%.	YES, in setback tree yards, if construction on either vacant lot, requires demolition of a 250+ sq. ft. structure, involves constructing a retaining wall of 4+ feet height or increases existing structure footprint by 50%.	NO except in wetland/stream areas
GENERAL OR ZONING	N/A	General			General		Zoning	General	General	Zoning	
HAS PENALTIES FOR VIOLATION	NO	Requires replacement trees at half caliber or funds into Selectmen's Tree Gift Account.	YES up to \$500	Recommended in Draft Ordinances	YES (Replacement or at least \$5000 into fund)	YES But only \$20. (may be related to state statutes; mass tree wardens asstn trying to update state statutes)	Tree Warden (Mattison noted that enforcement of tree regulation on private property is difficult)	YES (Replacement in kind or funds into Tree Fund)	YES	YES (case reported in 2014 fines of over \$5000)	
ENFORCEMENT BODY		Tree Warden (in DPW)	Tree Warden (DPW Director)	Tree Warden (City Arborist)	Tree Warden (City Arborist and DPW Commissioner)	Tree Warden (City Arborist and Dept of community development)	Tree Warden (Mattison noted that enforcement of tree regulation on private property is difficult)	Tree Warden (Urban Forestry Division)		Building Dept.	Conservation Commission
CONTACT INFO		Christopher Fladaro, Public Grounds Supt., DPW 781-274-8300 cfladaro@lexingtonma.gov	Brian Szekely (called), Town Planner, 781-721-7162, James Gill, Tree Warden and DPW Director 781-721-7100; both on Tree Committee	Rachel Kelly, Green Infrastructure Planner, 617-625-6600 x2516 (called); Brad Andri (former) Urban Forest Initiative (617) 455-1127 bandri@somervillema.gov (called); George Proskis, Director of Planning.	David Lefcourt City Arborist dlefcourt@cambridgema.gov 617-349-6433 (called); Owen O'Riordan, COMMISSIONER, 617-349-4800	Tom Walsh Tree Warden DPW Highway Dept 617-434-4114 (called)	Tom Brady Tree Warden, (sent email, called) 617-879-5550 DPW 617-201-5514 call; Hugh Mattison Tree Planting Committee htmattison@aol.com 617-232-6083 (called);	Director of Urban Forestry Marc R. Welch, (617) 779-1330; urbanforestry@lextownma.gov	Thomas Cullen, Jr. Tree Warden, DPW, 781-786-5105 No call made, cullen.thomas@westonmass.org	Michael T. Quinn Assistant Superintendent Parks and Highways/ Deputy Tree Warden 781-235-7600 x3320; Michael Zehner AICP, Planning Director, 781-431-1019 x2234	Jennifer Hughes, Conservation Administrator, North Andover 978-688-9530
HAVE COPY OF BYLAW	NA	YES (and Tree Manual)	YES	YES (Current Bylaw, Draft Plan and Draft Ordinances)	YES	YES	YES (Zoning Bylaws Sec. 5.09)	YES (and Tree Manual)	YES	YES (Zoning Bylaw Sec. XVII)	Have Tree Removal Procedure

# Comparison Pictures

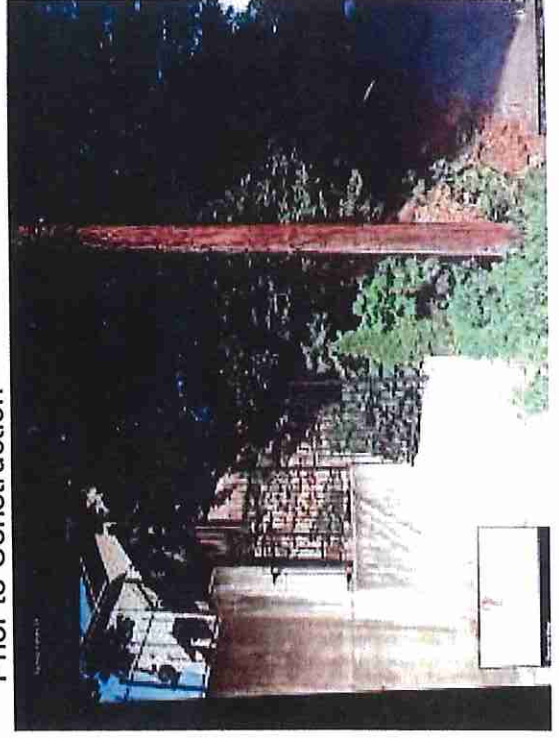
- 27 Oldham Road – 2007



- 27 Oldham Road – 2015



- 15 Lakeview Street/Spring Valley Street – View of Hill: Prior to Construction



- 15 Lakeview Street/Spring Valley Street – View of Hillside During Construction - approx.. 40 stumps



- 8 Oldham Road – 2007



- 8 Oldham Road – 2015



Effective July 1, 2011

## SECTION XVIIE TREE PROTECTION & PRESERVATION

### A. TITLE.

Section XVIIE may be cited as the "Town of Wellesley Tree Bylaw" and/or "Tree Bylaw".

### B. INTENT AND PURPOSE.

The intent of Section XVIIE is to encourage the preservation and protection of sizeable trees on portions of private property during significant demolition and/or development activity.

Trees are recognized for their abilities to improve air quality, protect from glare and heat, reduce noise, aid in the stabilization of soil, provide natural flood and drainage control, create habitats for wildlife, enhance aesthetics and property values, contribute to the distinct character of certain neighborhoods, and provide natural privacy to neighbors. Therefore, the Town deems that the preservation and protection of certain trees on private property, the requirement to replant trees to replace those removed, and the collection of financial contributions to support the Town's tree planting and maintenance efforts are public purposes that protect the public health, welfare, environment and aesthetics.

### C. DEFINITIONS.

For the purposes of Section XVIIE, the following definitions shall apply.

Caliper - Diameter of a tree trunk (in inches). For trees up to and including four (4) inches in diameter, the caliper is measured six (6) inches above the existing grade at the base of the tree. For trees larger than four (4) inches in diameter, the caliper is measured twelve (12) inches above the existing grade at the base of the tree.

Certified Arborist – A professional arborist possessing current certification issued by the International Society of Arboriculture (I.S.A.) and/or the Massachusetts Arborist Association (M.A.A.).

Critical Root Zone (CRZ) - The minimum area beneath the canopy of a tree which must be left undisturbed in order to preserve a sufficient root mass to give a tree a reasonable chance of survival. The CRZ is represented by a concentric circle centering on the tree's trunk and extending outward towards the tree's drip-line. The minimum area of the CRZ shall be dependent on the required minimum radius of the CRZ; the required minimum radius of the CRZ shall be determined by multiplying a tree's DBH (in inches) by eighteen (18) inches, with the resulting product constituting the minimum radius of the CRZ. EXAMPLE: A tree with a

DBH of twenty (20) inches shall have a CRZ with a minimum radius of 360 inches or 30 feet ( $20'' \times 18'' = 360''$  or 30').

Diameter at Breast Height (DBH) - The standard measure of tree size for those trees existing on a site that are at least four (4) inches in diameter at a height of four and one-half (4.5) feet above the existing grade at the base of the tree. If a tree splits into multiple trunks below four and one-half (4.5) feet above the existing grade, the DBH shall be considered to be the measurement taken at the narrowest point beneath the split.

Drip-Line - The area surrounding the tree from the trunk to the outermost branches. This area is distinguished from, and not to be confused with Critical Root Zone.

Overstory Tree - A tree that will generally reach a mature height of greater than forty (40) feet.

Protected Tree - Any existing tree or tree that was removed within twelve (12) months prior to application for an applicable demolition or building permit, with a DBH of ten (10) inches or greater, located in a Tree Yard of a property zoned Single Residence District or General Residence District, or located anywhere on property zoned other than Single Residence District or General Residence District. Any tree with a DBH of ten (10) inches or greater with portions of the stem of the tree actively growing into a Tree Yard between a height of six (6) inches and four and one-half (4.5) feet above grade shall be considered a Protected Tree.

Tree - Any self-supporting, woody perennial plant usually having a single trunk with a diameter of three (3) inches or more which normally attains a mature height of six (6) feet or greater.

Tree Bank - An account established for the deposit of contributions in lieu of tree replanting as required by Section XVII. Funds deposited in this account shall be used solely for the purpose of buying, planting and maintaining trees in the Town.

Tree Protection & Mitigation Plan - A plan submitted to the Building Department for review prior to the commencement of demolition and/or construction on a property on which a Protected Tree is located. This plan may be either part of a landscape plan and/or a separate plan.

Tree Removal - Any act that causes a tree to die or will cause a tree to die within a three (3) year period as determined by the Department of Public Works - Park & Tree Division based on arboricultural practices recommended by the International Society of Arboriculture (I.S.A.).

Tree Save Area - The area surrounding a tree which includes at a minimum the Critical Root Zone ("CRZ") and Drip-Line of all Protected Trees, unless otherwise authorized herein. The Tree Save Area must be enclosed within a fence and remain undisturbed so as to prevent damage to the tree.

Tree Yard - The area of a parcel zoned Single Residence District or General Residence District located adjacent to all front, side, and rear lines of a lot; Tree Yards shall have a minimum depth as specified in the table entitled "Location of Protected Trees on Property Zoned Single Residence District or General Residence District", contained in subsection F.1. of Section XVIIE. Trees having a DBH of ten (10) inches or greater and located within a Tree Yard shall be considered to be Protected Trees.

D. APPLICABILITY.

1. Applicability: The requirements of Section XVIIE shall apply under any of the following circumstances:
  - a. Proposed demolition of an existing structure with a footprint of 250 square feet or greater;
  - b. Construction of retaining walls subject to the requirements of Section XXIID., Retaining Walls;
  - c. Construction of any building or structure on a vacant lot; or
  - d. Construction of one or more structures or additions to structures on a lot, where the total area of the footprint of the new structures will result in an increase of 50% or more of the total footprint of the pre-existing structure(s).
2. Non-applicability: The requirements of Section XVIIE shall not apply to:
  - a. The subdivision of land under the Subdivision Control Law and the Rules and Regulations Governing the Subdivision of Land In Wellesley Massachusetts, wherein the Planning Board regulates the planting, retention and/or replacement of trees, by means of the Board's authority over the subdivision of land;
  - b. Construction subject to Large House Review, wherein the Planning Board regulates the planting, retention and/or replacement of trees located on private residential land;
  - c. Those areas of property under the jurisdiction of the Wetlands Protection Act (Chapter 131 and 310 CMR), wherein the Wetlands Protection Committee regulates the retention and/or replacement of trees located on

private land. Protected trees located outside areas under the jurisdiction of the Wetlands Protection Committee shall be subject to Section XVIIE;

- d. Town-owned public trees, including trees that are considered to be Public Shade Trees pursuant to M.G.L. Chapter 87, which are protected by the Natural Resources Commission acting as the Town's Tree Warden.
  - e. Emergency projects necessary for public safety, health and welfare as determined by the Inspector of Buildings;
  - f. Trees that are hazardous as determined and confirmed in writing by a Certified Arborist; and
  - g. Trees subject to an immediate and/or probable risk of disease or insect infestation, as determined and confirmed in writing by a Certified Arborist.
3. Existing Encroachments: For the purposes of interpreting, administering, and enforcing Section XVIIE and Section XVII, Pre-Existing Non-Conforming Uses, Structures and Lots, an existing structure shall not be considered to be a nonconforming structure solely because the structure, or a portion of the structure, is located within the CRZ and/or Drip-Line of an existing Protected Tree. The reconstruction of demolished structures or portions of structures within the previously encroached area of the CRZ and/or Drip-Line shall be prohibited, except when consistent with the requirements of Section XVIIE.

E. TOWN OF WELLESLEY TREE BANK.

There is hereby established a Town of Wellesley Tree Bank ("Tree Bank") which shall be held by the Town Treasurer in an account administered by the Department of Public Works - Park & Tree Division in accordance with applicable provisions of the General Laws. Any contributions collected per subsection F.2.b.ii. of Section XVIIE shall be deposited in said Tree Bank, and shall be used solely for the purpose of buying, planting and maintaining trees in the Town.

F. PROTECTED TREES.

1. Scope: Existing trees or trees that were removed within twelve (12) months prior to application for an applicable demolition or building permit with a DBH of 10" or greater and located within the minimum Tree Yard of a property zoned Single Residence District or General Residence District as identified in the following table, shall be considered to be Protected Trees.

Existing trees or trees that were removed within twelve (12) months prior to application for an applicable demolition or building permit with a DBH of 10" or greater and located anywhere on property zoned other than Single Residence

District or General Residence District, shall be considered to be Protected Trees.

Demolition and/or construction activity (as identified under subsection D.1. of Section XVIIE) on a property on which a Protected Tree is located is prohibited unless authorized by the Inspector of Buildings as set forth in this subsection.

<b>Location of Protected Trees on Property Zoned Single Residence District or General Residence District</b>			
Zoning District	Minimum Tree Yard (feet)		
	Front	Side	Rear
SRD 10	20	10	10
SRD 15	20	20	20
SRD 20	20	20	20
SRD 30	40	30	30
SRD 40	40	40	40
General Residence District	20	10	10

2. Tree Protection & Mitigation:

- a. Protection: Each Protected Tree to be retained on property planned for demolition and/or construction activity shall be protected by the establishment of a Tree Save Area. The Tree Save Area shall be delineated within the submitted Tree Protection & Mitigation Plan, shall be installed prior to the issuance of applicable permits, and shall remain in place until work is completed on the property. The applicant shall submit written documentation, prepared, stamped, dated and signed by a Certified Arborist, to the Building Department confirming that the required Tree Save Area identified in the Tree Protection & Mitigation Plan has been installed.

An applicant may choose to encroach within the CRZ and/or Drip-Line of a Protected Tree; however, such proposed action shall require the applicant to submit a maintenance plan for the tree, to be prepared, stamped, dated and signed by a Certified Arborist as part of the Tree Protection & Mitigation Plan. Under these instances, the Tree Save Area may be reduced to protect only those areas of the CRZ and/or Drip-Line not proposed for encroachment.

- b. Mitigation: The removal of a Protected Tree from a property in connection with one or more of the circumstances set forth in subsection D.1. shall require mitigation by satisfying one of the following provisions (i. *Replanting of Trees* or ii. *Contribution to the Town of Wellesley Tree Bank*). Mitigation measures shall be identified in the submitted Tree Protection and Mitigation Plan. The removal or proposed removal of a Protected Tree(s) that has been mitigated for, in conjunction with a previous applicable permit, shall not require additional mitigation under subsequent permits, unless such mitigation has not been completed or otherwise assured.
  - i. *Replanting of Trees*: For each inch of DBH of the tree(s) removed no less than one-half (0.5) inch of caliper of new tree(s) shall be replanted in accordance with the following:
    - 1. Each new tree must have a minimum caliper of two (2) inches;
    - 2. Such replanting, either on the applicant's land or on land abutting the applicant's land with the express written approval of the owner of such abutting land, shall occur prior to Final Inspection, or be otherwise assured at such time to the satisfaction of the Town in a manner consistent with the Rules and Regulations;
    - 3. If the Protected Tree to be removed is an Overstory Tree species, the replacement tree(s) to mitigate the removal shall be an Overstory Tree species; and
    - 4. Invasive tree species, as determined by the Department of Public Works - Park & Tree Division, shall not be replanted to mitigate the removal of a Protected Tree.
  - ii. *Contribution to the Town of Wellesley Tree Bank*: The Board of Selectmen shall establish a Tree Bank contribution schedule, such schedule to be based on the DBH of Protected Tree(s) to be removed. The schedule may take into account the aggregate DBH of Protected Trees to be removed. The applicant shall make such contribution to the Tree Bank for the removal of a Protected Tree not already mitigated for per subsection F.2.b.i.; contributions shall be received by the Building Department prior to the issuance of all applicable permits.

3. Plan Review and Permit Issuance:

- a. Tree Protection & Mitigation Plan Submittal: Prior to the issuance of a permit in connection with one or more of the circumstances set forth in subsection D.1. on property on which a Protected Tree is located or was located within twelve (12) months prior to application, the owner of the

property shall submit a Tree Protection & Mitigation Plan to the Building Department along with the applicable application.

If a permit requiring the submittal of a Tree Protection & Mitigation Plan was issued for a property within twelve (12) months prior to application for one or more of the circumstances set forth in subsection D.1., the submittal of a Tree Protection & Mitigation Plan shall not be required for subsequent permits unless any information required under subsection F.3.b. is changed or altered.

- b. Tree Protection & Mitigation Plan Requirements: The submitted Tree Protection & Mitigation Plan shall be a to-scale survey or site plan, along with any accompanying documentation, containing information prepared, stamped, dated and signed by an individual(s) appropriately licensed and authorized by the State of Massachusetts to attest to and certify such information, unless a specific certification is referenced herein. The plan shall include, but not be limited to, the following information:
  - i. Boundaries of the subject property, including all property lines, easements, and right-of-ways of public and private ways;
  - ii. The location of all existing buildings, driveways, retaining walls and other improvements, with an indication of those features to be retained or removed/demolished;
  - iii. The location of all planned buildings, driveways, retaining walls and other improvements;
  - iv. The location, height, DBH, and species of all existing Protected Trees and all Protected Trees that were removed within twelve (12) months prior to application for an applicable demolition or building permit, with an indication of those Protected Trees to be removed and those to be retained, if applicable;
  - v. The CRZ, drip-line and location of the Tree Save Area shall be shown for all Protected Trees to be retained;
  - vi. The location, caliper, species, and planting schedule of trees to be replanted to mitigate the removal of a Protected Tree(s), if applicable;
  - vii. A maintenance plan prepared, stamped, dated and signed by a Certified Arborist for all Protected Trees which are proposed to have encroachment within the CRZ and/or drip-line, if applicable;
  - viii. The amount to be contributed to the Tree Bank to mitigate the removal of a Protected Tree(s), if applicable; and

- ix. Such other information as is required by the Inspector of Buildings pursuant to applicable regulations.
  - c. Tree Bank Contribution: In lieu of replanting, if applicable, the owner of the property shall submit any required contribution to the Tree Bank as mitigation for the removal of a protected tree.
  - d. Building Department Action: If the Tree Protection & Mitigation Plan is consistent with the protection and mitigation requirements contained herein and any established rules, regulations or manuals, and any applicable Tree Bank contribution has been submitted, the Building Department may issue any applicable permit. If the proposal does not meet or satisfy these requirements, the Building Department shall deny all applicable permit applications and so notify the applicant.
4. Maintenance of Protected and Replanted Trees:
- a. Protected Trees: Each Protected Tree retained shall be maintained in good health for a period of no less than twenty-four (24) months from the date of Final Inspection, or issuance of a Certificate of Occupancy if applicable. Should such tree die within this twenty-four (24) month period, the owner of the property shall be required to provide mitigation consistent with the requirements for the removal of a Protected Tree as contained herein within nine (9) months from the death of the original tree.
  - b. Replanted Trees: All new trees replanted to mitigate the removal of Protected Tree(s) shall be maintained in good health for a period of no less than twenty-four (24) months from the date of planting. Should such tree die within this twenty-four (24) month period, the owner of the property shall be responsible for replacing the tree with a tree equal to or greater than the size of the original replacement tree at the time of planting; such tree shall be planted within nine (9) months of the death of the original replacement tree.

G. RULES AND REGULATIONS.

The Planning Board may promulgate or amend Rules and Regulations which pertain to the administration of Section XVIE, and shall file a copy of said rules in the office of the Town Clerk. Such rules may prescribe the size, form, contents, style, and number of copies of plans and specifications, the procedure for the submission and approval of such plans, the procedure for determining final compliance with these regulations, and the criteria and procedure regarding the Planning Board's acceptance of sureties (i.e., bonds, letters of credit, etc.) intended to satisfy the requirements of subsection F., 2., b., i. of Section XVIE, so long as the Rules and Regulations conform to Section XVIE of the Zoning Bylaw.

The adoption or amendment of Rules and Regulations shall be after a public hearing to receive comments on the proposed or amended Rules and Regulations. The public hearing shall be advertised once in a newspaper of general local circulation, at least 14 days prior to the date of the public hearing.

Approved:

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Date

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Moderator's Signature

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Sponsor's Signature

## **Weston MA tree bylaw**

**Passed with 2/3 vote at May, 2015 Town Meeting**

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### **ZONING BY-LAW ARTICLES**

#### **ARTICLE 22: AMEND ZONING BY-LAW – SECTION VI.A. – CLARIFY/LIMIT LOT CLEARING**

To amend Section VI. DIMENSIONAL AND OTHER REQUIREMENTS, A. GENERAL, of the Zoning By-law of the Town of Weston by adding the following proposed subsection:

"5. No site alteration work which requires or will require a storm water permit or any zoning or other land development permit or approval shall be performed on any property until such permit or approval is obtained, including any one of the following:

- a. Approval by the Planning Board of a site plan where such approval is or will be required under the provisions of this Zoning By-law
- b. Issuance of a permit by the Storm Water Permitting Authority where such permit is required by the Storm Water By-law, Article XXVII of the By-laws of the Town of Weston.
- c. Issuance of a permit for building, demolition, or any other permit required by the Massachusetts Building Code or this Zoning By-law.

Site alteration work can be performed and is permitted once any of the above permits or approvals has been obtained by the property owner or if any of the following exceptions apply:

#### **Exceptions:**

- 1. Site alteration work or clearing which does not require a storm water permit, or site plan approval by the Planning Board, or any building permits.
- 2. Soil testing.
- 3. Routine landscape maintenance including thinning of forest, trees and vegetation.
- 4. Removal of nuisance or invasive species vegetation such as bittersweet, poison ivy, etc.
- 5. Removal of any 'prohibited plantings' as identified by the Commonwealth of Massachusetts Executive Office of Energy and Environmental Affairs, Department of Agricultural Resources.
- 6. Removal of trees or limbs which pose a threat of property damage or threat to public safety.
- 7. Removal of any dead or dying trees or vegetation.

8. Any utility work both underground and overhead, including work done in maintaining, testing, inspecting or repairing existing underground services, utilities, septic systems and other structures.

9. Any work to provide access onto a property for any existing by-right use of the property.

10. Any work done on recorded easements, the purpose of which is limited to vehicular access, pedestrian access, utility service, or viewscape maintenance, provided that previous vegetation clearing in such easements has occurred within the preceding five years, and that the proposed work shall be limited to that essential for the purpose intended.

11. Properties in Chapter 61 status such as agricultural or forestry.

12. Work done in conjunction with construction, alteration or repair of a septic system pursuant to a septic permit from the Board of Health.

13. Removal of or planting of trees or vegetation which dangerously obstructs the view of traffic by operators of vehicles at street or driveway curves or intersections or otherwise constitutes a hazard to public safety.

If any provision of this section is violated by a property owner, then no building permit may be issued for any new or replacement dwelling for up to 9 months following the violation. All other fines or remedies to which the Town is entitled may also be imposed at the Town's discretion."

Or take any other action relative thereto.

*Article 22 Explanation: The purpose of this article is to advise permit applicants of the town's preference for preserving mature trees when possible as a reflection of the town's rural character, and of the potential regulatory consequences of indiscriminate clear cutting. A two-thirds vote of Town Meeting is required for approval of this article.*

## **LEXINGTON MA TREE BYLAW**

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### **CODE OF THE TOWN OF LEXINGTON, MASSACHUSETTS, v5 Updated 10-5-2004**

#### **PART I GENERAL BYLAWS**

##### **Chapter 120, TREES**

**[HISTORY: Adopted by the Annual Town Meeting of the Town of Lexington 4-11-2001  
by Art. 34. Amendments noted where applicable.]**

###### **120-1. Findings.**

The Town of Lexington finds that mature trees have aesthetic appeal, contribute to the distinct character of certain neighborhoods, improve air quality, provide glare and heat protection, reduce noise, aid in the stabilization of soil, provide natural flood- and climate-control, create habitats for wildlife, enhance property values and provide natural privacy to neighbors.

###### **120-2. Intent and purpose.**

This by-law is enacted for the purpose of preserving and protecting both public shade trees pursuant to General Law Chapter 87 and certain trees on portions of private property. To achieve these purposes, this by-law establishes a Tree Committee and empowers the Committee, in conjunction with the Tree Warden, to regulate the removal and replacement of trees in certain circumstances, and to promote the planting and protection of trees throughout the Town. It is desirable that the Town plant more trees than are removed to compensate for tree losses and the length of time to maturity. The provisions of this by-law, when pertaining to private property, apply only when there is major construction or demolition as defined below and only within setback areas.

###### **120-3. Definitions.**

A. When used in this by-law, the following definitions shall apply:

**CALIPER** -- Diameter of a tree trunk (in inches) measured six inches above the ground for trees up to and including four-inch diameter, and 12 inches above the ground for larger trees.

DBH ("Diameter at Breast Height") -- The diameter (in inches) of the trunk of a tree (or, for multiple trunk trees, the aggregate diameters of the multiple trunks) measured 4 1/2 feet from the existing grade at the base of the tree.

DEMOLITION -- Any act of pulling down, destroying, removing or razing a building or commencing the work of total or substantial destruction with the intent of completing the same.

MAJOR CONSTRUCTION -- Any construction of a structure on a vacant lot, or any construction of one or multiple structures or additions to structures on an existing lot, wherein there would result an increase of 50% or more in the total footprint of the new structure(s), when compared to the total footprint of the pre-existing structure(s).

PERSON -- Any person, firm, partnership, association, corporation, company or organization of any kind including public or private utility and municipal department.

PROTECTED TREE -- Any tree on private land, with a DBH of eight inches or greater (or any multiple trunk tree with a DBH of 15 inches or greater), located in the setback area (or which, as determined by the Tree Warden, has any portion of the stem between six inches and 4 1/2 feet above grade actively growing into the setback area), provided that tree is not hazardous or undesirable as defined in the Tree Manual.

PUBLIC SHADE TREE -- Any tree within the public right-of-way except for state highways that, as determined by the Tree Warden, has any portion of the stem between six inches and 4 1/2 feet above grade actively growing into the public right-of-way.

SETBACK AREA -- The portion of the lot which constitutes the minimum side, rear and front yard as per Table 2 ("Schedule of Dimensional Controls") or 135-38A of the Zoning By-Law of the Town of Lexington. For purposes of establishing the setback area in which the provisions of this by-law shall apply, the measurement shall be from any point on any property line of the lot, to points along an imaginary line drawn representing the minimum setback requirement.

TOWN TREE -- Any tree within a public park or open space under the jurisdiction of the Selectmen acting as park commissioners, on public school grounds, or on any other Town-owned land.

TREE REMOVAL -- Any act that will cause a tree to die within a three-year period.

B. The Tree Committee may provide other such definitions or terms in rules and

regulations, approved by the Selectmen, deemed useful to implement this by-law.

#### 120-4. Applicability.

A.Applicability. The circumstances under which the tree protection, removal and replacement regulatory process delineated in this by-law shall apply are as follows:

(1)Proposed cutting (trunk, limbs or roots) of existing public shade trees on public and private ways (accepted or unaccepted streets) or of Town trees on Town-owned (or leased land being used as a public facility) by any person.

(2)Proposed demolition of an existing residential or nonresidential structure.

(3)Proposed major construction on an existing residential or nonresidential lot.

B.Non-applicability. This by-law shall not apply in any instance where the Planning Board, the Zoning Board of Appeals or the Conservation Commission has established jurisdiction, including but not limited to the following:

(1)The Planning Board regulates the planting, retention and/or replacement of public shade trees, by means of the Board's authority over subdivision of land and/or the administration of unaccepted streets under Chapter 175, Parts 1 - 3 (formerly Chapter 5), of the Planning Board's Development Regulations;

(2)The Planning Board regulates planting, retention and/or replacement of on-lot trees on private residential land, where said property is subject to a special permit under the Zoning By-Law, or issues recommendations emanating from a preliminary site development and use plan review;

(3)The Zoning Board of Appeals regulates planting, retention and/or replacement of onlot trees on private nonresidential land, where said property is subject to a special permit under the Zoning By-Law;

(4)The Conservation Commission regulates the retention and/or replacement of on-lot trees, by means of administering the Wetlands Protection Act (Chapter 131 and 310 CMR) within jurisdictional areas of the property.

#### 120-5. Tree Warden.

The Public Grounds Superintendent within the Department of Public Works shall serve as the Tree Warden unless another designee is appointed by the Selectmen.

A.The duties or responsibilities of the Tree Warden shall conform to General Law Chapter 87 and shall include, but not be limited to, the following as may be further

specified in this by-law:

- (1) Management of all trees within public rights-of-way and adjacent to public buildings and commons; care and control of trees on Town property if so requested by the Selectmen, and on Town land owned by other departments such as Schools, Recreation and Conservation, if so requested by the respective department and approved by the Selectmen;
- (2) Expending funds, in coordination with the Tree Committee, appropriated for planting trees on Town land under the jurisdiction of the Tree Warden;
- (3) With recommendations from the Tree Committee, granting or denying and attaching reasonable conditions to all permits required under this by-law;
- (4) Work in conjunction with the Tree Committee to seek grants or other assistance concerning the preservation and maintenance of trees in Town;
- (5) Development of rules, regulations, tree inventory, manuals and other data, in conjunction with the Tree Committee, to carry out the purposes and intent of this by-law for approval and promulgation by the Selectmen;
- (6) Enforcement of this by-law;
- (7) Appointment or removal of Deputy Tree Wardens.

B. Moreover, the Selectmen may authorize the Tree Warden to undertake other responsibilities consistent with the purposes and intent of this by-law.

#### 120-6. Tree Committee.

A. The Town shall have a Tree Committee that consists of seven members as appointed by the Selectmen. For the first appointments, three members will serve one-year terms; two members will serve two-year terms; and two members shall serve three-year terms. All members up for renewal will then serve three-year terms.

B. The Tree Committee shall have the following duties and responsibilities as may be further specified in this by-law:

- (1) Development of rules, regulations, tree inventory, manuals and other data, in conjunction with the Tree Warden, to carry out the purposes and intent of this by-law, for approval and promulgation by the Selectmen;
- (2) Permit the removal of certain trees on private property upon appeal, by an applicant;
- (3) Public education and coordination with other Town Committees and civic groups to

promote the purposes and intent of this by-law;

(4) Work in conjunction with the Tree Warden to seek grants or other assistance concerning the preservation and maintenance of trees in Town.

#### 120-7. Public shade trees and town trees.

A.Scope. A public shade tree or Town tree may not be cut, pruned, removed or damaged by any person or the Town until and unless the Tree Warden issues a written permit pursuant to this section.

B.Procedures. Any person seeking to prune or remove a public shade tree or Town tree shall submit an application to the Tree Warden in accordance with any application requirements issued by the Tree Warden. The Tree Warden shall hold a public hearing on applications for removal, at the expense of the applicant, in accordance with the provisions outlined within General Law Chapter 87. The permit issued by the Tree Warden may specify schedules, terms, and conditions, including requiring the planting of replacement trees.

C.Planting of trees on Public Land. Any person seeking to plant a tree on public land under the jurisdiction of the Tree Warden must obtain written permission from the Tree Warden. Such permission may specify schedules, terms, and conditions as deemed appropriate by the Tree Warden.

#### 120-8. Protected trees.

A.Scope. The removal of protected trees in conjunction with demolition or major construction is prohibited unless authorized by the Tree Warden, or Tree Committee as set forth below.

B.Procedures. When major construction or demolition is planned, the owner of the property shall submit to the Building Commissioner as part of the application for a building or demolition permit a site plan drawn and stamped by a registered land surveyor showing all existing trees on the property of eight-inch DBH or greater.

(1) If any protected trees will be removed or damaged in connection with major construction or demolition, the owner of the property shall submit a proposal for tree removal and mitigation to the Building Commissioner with the application for a building or demolition permit. Additionally, if any protected trees were removed during the 12 months preceding the application for the building or demolition permit, a tree removal

and mitigation proposal regarding the protected trees already removed shall be submitted to the Building Commissioner. The proposal shall satisfy the mitigation requirements set forth below and any rules, regulations or manuals promulgated by the Selectmen. The Selectmen shall set an application fee.

(2)The Building Commissioner shall refer the tree proposal to the Tree Warden. The Tree Warden shall conduct a site visit. If the applicant's proposal is consistent with the mitigation requirements herein and the rules, regulations or manuals issued by the Selectmen, the Tree Warden will issue a permit within 10 business days of receipt by the Tree Warden of the proposal to authorize the tree work. If the proposal does not meet or satisfy these requirements, the Tree Warden shall so notify the applicant and deny the permit.

(3)An applicant may appeal the denial or grant of a tree permit to the Tree Committee. The Tree Committee shall conduct a public hearing on the appeal and shall give the public notice thereof, at the expense of the applicant. Public notice shall include all persons owning land within 300 feet of any part of applicant's land at least 14 days before said hearing. The Tree Committee shall rule within 20 days of the public hearing.

(4)Appeals of final decisions of the Tree Committee shall be to Superior Court and shall be limited to whether the decision was arbitrary or capricious.

C.Mitigation. A protected tree shall not be removed unless at least one of the following provisions is satisfied:

(1)Replanting of trees: such replanting shall be on the basis of 1/2 inch of caliper of new tree(s) for each inch of DBH of tree(s) removed, and each replanted tree must have a minimum caliper of three inches. The replanting shall occur no later than 12 months after completion of the construction work, either on applicant's land or on land abutting applicant's land with express approval of the owner of such abutting land;

2)Contribution into the Selectmen's Tree Gift Account: such contribution shall be \$50 per DBH inch of protected tree or Town tree removed not already mitigated as per Subsection C(1); or [Amended 3-31-2004 ATM by Art. 34]

(3)The applicant demonstrates that the removal of a protected tree is desirable to enhance the landscaping on the lot, and that such removal does not negatively impact in an excessive manner on the character of the neighborhood or on the privacy enjoyed by

abutters.

#### 120-9. Emergencies and exemptions.

Provisions of this by-law shall not apply to:

- A. Emergency projects necessary for public safety, health and welfare as determined by the Director of Public Works or the Town Manager;
- B. Trees that are hazardous as determined in writing by the Tree Warden;
- C. Invasive tree species as identified in the Tree Manual;
- D. Trees identified by the Commonwealth that pose a risk of disease or insect infestation.

#### 120-10. Enforcement.

A. Any person violating this by-law is subject to the penalties under Chapter 1, 1-6 of the General By-Laws, General Law Chapter 87 (for violations concerning public shade trees) and other legal enforcement action by the Town. The Tree Warden is authorized to enforce the provisions of Chapter 1 of the General By-Laws and of General Law Chapter 87. Any other legal enforcement action shall be determined by the Selectmen in consultation with the Tree Committee, the Tree Warden and Town Counsel.

B. Each instance in which a Town tree or a protected tree is removed without a tree permit shall constitute an offense under this by-law. When Town trees or protected trees have been removed without a permit, mitigation (as outlined in 120-8C of this by-law) and the payment of fines (as outlined in the Fine Schedule at the end of this by-law EN) shall be required. [Amended 3-31-2004 ATM by Art. 34]

C. If mitigation and the payment of fines are completed in due time as determined by the Tree Warden, the project will be approved. If not completed, then each day beyond the determined and agreed upon completion date shall constitute a new and separate offense. [Amended 3-31-2004 ATM by Art. 34]

#### 120-11. Rules and regulations.

The Selectmen may promulgate, after public notice and hearing, rules and regulations to effectuate the purposes and intent of this by-law. Failure by the Selectmen to promulgate such rules and regulations shall not act to suspend or invalidate the effect of this by-law.

#### 120-12. Severability.

If any section, paragraph or part of this by-law is for any reason declared invalid or

unconstitutional by any court, every other section, paragraph and part shall continue in full force.

120-13. Relationship to other laws.

Nothing in this by-law shall be construed to restrict, amend, repeal, or otherwise limit the application or enforcement of existing Town of Lexington by-laws or Commonwealth of Massachusetts laws.

120-14. Funds. [Added 3-31-2004 ATM by Art. 34]

Collection of voluntary contributions under this by-law shall be deposited into the Selectmen's Tree Gift Account. The Tree Warden, with input from the Tree Committee, will request use of these funds for tree planting, transplanting, and other tree-related needs. The request to expend these funds will be approved by the Board of Selectmen.

SUSAN\DOCUMENTS\ARL TREE BYLAW\Tree bylaw LEXINGTON

## **CAMBRIDGE MA TREE BYLAW**

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### Chapter 8.66 - TREE PROTECTION

#### Sections:

#### 8.66.010 - Short Title

This Chapter may be cited as the Tree Protection Ordinance of the City of Cambridge.

(1277, Added, 08/02/2004)

#### 8.66.020 - Statement of Purpose

The City Council hereby finds that the preservation of existing trees and the promotion of new tree planting is a public purpose that protects the public health, welfare, environment and aesthetics of the City of Cambridge and its citizens.

The urban forest serves a wide variety of functions, which promote the health, safety and welfare of residents. These functions include:

- (a) conserving energy, by providing shade and evaporative cooling through transpiration;
- (b) improving local and global air quality by absorbing carbon dioxide and ozone, absorbing particulate matter, and producing oxygen;
- (c) reducing wind speed and directing air flow;
- (d) reducing noise pollution;
- (e) providing habitat for birds, small mammals, and other wildlife;
- (f) reducing storm runoff and the potential for soil erosion;
- (g) increasing real property values; and
- (h) enhancing visual and aesthetic qualities that attract visitors and businesses.

(1277, Added, 08/02/2004)

#### 8.66.030 - Definitions

**Building.** A structure enclosed within exterior walls or firewalls, built, erected and framed of a combination of any materials, whether portable or fixed, having a roof, to form a structure for the shelter or persons,

animals or property.

**Certified arborist.** An arborist certified by the Massachusetts Arborists' Association or the International Society of Arboriculture, or any successor of either organization.

**City Arborist.** The City Arborist appointed by the City Manager, or any other Certified Arborist designated by the Commissioner of Public Works and approved by the City Manager to exercise any of the authority granted to the City Arborist pursuant to this Chapter.

**DBH (Diameter at Breast Height).** The diameter of a tree trunk measured in inches at a height of four (4) feet above the ground.

**Lot.** A parcel of land in identical ownership throughout, bounded by other lots or streets, which is designated by its owner to be used, developed or built upon as a unit.

**Mitigation Plan.** A document to be included within any Tree Study submitted for a project where any Significant Trees are proposed to be removed from a lot, stating (i) why any Significant Trees are proposed to be removed from a lot, (ii) a description of the Replacement Trees proposed to replace the Significant Trees to be removed or the value of which is proposed to be paid to the City to be deposited into the Tree Replacement Fund, (iii) an estimate from a local nursery for the cost of purchasing, planting, watering and maintaining said Replacement Trees for a period of not less than five years or the value of which is proposed to be paid to the City to be deposited into the Tree Replacement Fund, and (iv) certification from a Certified Arborist that the proposed Replacement Trees and cost estimates for purchasing, planting, watering and maintaining said Trees are appropriate and reasonable.

**Owner.** For purposes of this Chapter, an owner shall be defined as set forth in the Zoning Ordinance, Title 17 of the Cambridge Municipal Code.

**Replacement Trees.** A tree or trees to be planted on a lot to replace any Significant Trees to be removed from the lot, or whose equivalent value is proposed to be paid to the City to be deposited into the Tree Replacement Fund instead of planting Replacement Trees on the lot. The total DBH of Replacement Trees, or equivalent value, as applicable, shall be equal to or exceed the total DBH of the Significant Trees to be removed from the lot.

**Significant Trees.** Any tree or trees larger than 8" DBH which is on a lot or which has been removed from the lot within one year prior to the submission of a Tree Study to the City Arborist.

**Tree Protection Plan.** This plan may be either a separate drawing or part of a landscape plan, and shall include the following information:

- a) Drawings of tree protection measures and (i) their location on the lot, including Tree Save Areas, and the location, height and DBH of Significant Trees and an indication of which Significant Trees would remain on the site, or (ii) in the event that any Significant Trees are proposed to be removed, the location of those Significant Trees, and the location, height and DBH of Replacement Trees which are proposed to be planted on the lot if feasible, or (iii) in the event that Replacement Trees are not proposed to be planted on the lot, the total sum, as identified in the Mitigation Plan, to be paid to the City to be deposited into the Tree Replacement

Fund, shall be required to be submitted together with the Tree Protection Plan;

- b) A schedule for planting the proposed Replacement Trees and a representation that such trees will be inspected and, if necessary, treated by a Certified Arborist once a year for five years; and
- c) Such other information as is required by the City Arborist pursuant to applicable regulations.

**Tree Save Area.** The area surrounding a tree which must remain undisturbed so as to prevent damage to the tree.

**Tree Study.** The information submitted to the City Arborist, which shall include a Tree Survey, a Tree Protection Plan, and, if applicable, a Mitigation Plan.

**Tree Survey.** A plan showing the location, type, height and DBH of all trees on a lot.

(1277, Added, 08/02/2004)

#### 8.66.040 - Applicability

This Chapter shall apply to all trees located on lots specified in the following section §8.66.050. This Chapter shall not apply to any project of the Affordable Housing Trust or otherwise for the construction of low and moderate-income housing meeting the standards established pursuant to any City, State or Federal housing program designed to assist low and moderate-income households.

(1277, Added, 08/02/2004)

#### 8.66.050 - Procedure for Large Projects

- a. In any project which requires a special permit under §§ 4.26.1 - 4.26.3, §19.20, §11.12.1, §11.12.2, or §11.12.3 of the Zoning Ordinance, the application for the special permit shall include a Tree Study, which shall first have been submitted to the City Arborist not less than twenty-one (21) days prior to the submission of the application for a special permit. The Tree Study shall be reviewed by the City Arborist, who shall certify that he has reviewed it, indicating whether it is complete and complies with the applicable provisions of this Chapter and regulations promulgated thereunder. The City Arborist shall refer the Tree Study with his certification and recommendations to the Planning Board, to assist the Planning Board in establishing any conditions that may be required as a result of the findings of the Tree Study in connection with the issuance of a special permit.
- b. Regarding any project which includes a building of 25,000 square feet or more and which is subject to the provisions of § 19.50 of the Zoning Ordinance, the materials submitted to the Inspectional Services Department with the application for a building permit shall include a Tree Study, together with a certification from the City Arborist that the applicant has submitted the Tree Study for review to the City Arborist not less than twenty-one (21) days prior to the submission of the application for a building permit, and that the Tree Study is complete and complies with the applicable provisions of this Chapter and regulations promulgated thereunder. The owner of the lot shall be required to commit to comply with all provisions of the Tree Study and the applicable provisions of this Chapter and regulations promulgated hereunder in the application for a building permit.

(1277, Added, 08/02/2004)

8.66.060 - Tree Replacement

If Significant Trees are to be removed from a lot in connection with the development of a project subject to the provisions of this Chapter, upon approval of any project subject to the provisions of §8.66.050(a) of this Chapter by grant of a special permit from the Planning Board, or submission to the Inspectional Services Department of certification from the City Arborist under the provisions of §8.66.050(b) of this Chapter, the owner of the lot shall either plan Replacement Trees on the same lot in accordance with the schedule set forth in the Tree Study, or he shall pay the estimated cost of Replacement Trees and associated costs for the maintenance of said trees pursuant to the Mitigation Plan, if applicable, to the City to be deposited into the Tree Replacement Fund. In addition, the owner of the lot shall, prior to the issuance of a building permit, post and file a bond with the City Clerk in the amount of the total costs set forth in the Mitigation Plan, but in no event less than five thousand dollars (\$5,000.00), with one or more sureties conditioned to the faithful observance of the conditions and specifications of the Tree Protection Plan and, if applicable, the Mitigation Plan.

(1277, Added, 08/02/2004)

8.66.070 - Tree Replacement Fund

There is hereby established a Tree Replacement Fund which shall be held by the City Treasurer in an account and administered in accordance with applicable provisions of the General Laws. Any payments into the Tree Replacement Fund required by §8.66.060 shall be deposited in said Fund, and shall be used solely for the purpose of buying, planting and maintaining trees in the City.

(1277, Added, 08/02/2004)

8.66.080 - Regulations

The Commissioner of Public Works shall have the authority to promulgate regulations to accomplish any of the provisions of this Chapter.

(1277, Added, 08/02/2004)

8.66.090 - Enforcement

- (a) Notice of Violations. Any person who violates any of the provisions of this Chapter shall be notified by the City Arborist of the specific violation by certified or registered mail, return receipt requested, or by hand delivery. The notice shall set forth the nature of the violation and a reasonable time period within which compliance must be had.
- (b) Stop Work Order
  - (1) Upon notice from the City Arborist that work on any lot on which a Significant Tree is located is being performed contrary to any applicable Mitigation Plan or Tree Protection Plan or any provision of this Chapter, such work shall be immediately stopped by the Commissioner of Inspectional Services or his designee. The stop work order shall be in writing, and shall be given to the owner of the lot involved, or to the owner's agent, or to the person doing the work,

and shall state the conditions under which work will be permitted to resume.

- (2) Any person who shall continue any work in or about said lot after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not more than \$300.00. Each day during which a violation exists shall constitute a separate offense.
- (c) Injunctive Relief. Whenever there exists reasonable cause to believe that a person is violating any applicable Mitigation Plan or Tree Protection Plan or any provision of this Chapter, the City may institute a civil action for a mandatory or prohibiting injunction in a court of competent jurisdiction ordering the defendant to correct the unlawful condition upon or cease the unlawful use of the property.
- (d) Failure to Replace Trees or Make Payment. Each failure to replace a Significant Tree or make a payment into the Tree Replacement Fund or to post and maintain a bond in accordance with §8.66.060 shall constitute a separate violation of this Chapter for which there shall be a fine in the amount of \$300.00. Each day such violation continues shall constitute a separate offense.
- (e) Alternative Penalty. As an alternative to any fine stated in this §8.66.090, citations may be issued pursuant to G.L. c. 40, §21D, assessing a fine of \$300.00 for each day the violation is committed or permitted to continue. The Commissioner of Public Works or his designee, the City Arborist, employees of the Department of Public Works and Police Officers shall be the authorized enforcement personnel.

(1277, Added, 08/02/2004)

#### 8.66.100 - Severability

The provisions of this Chapter are severable. If any section, provision or portion of this Chapter is determined to be invalid by a court of competent jurisdiction, the remaining provisions of this Chapter shall continue to be valid

(1277, Added, 08/02/2004)

#### 8.66.110 - Effective Date

This ordinance shall take effect only upon ordination of the companion zoning amendment and any other zoning amendments necessary to effectuate the provisions of this Tree Ordinance.

(1277, Added, 08/02/2004)

SUSAN\DOCUMENTS\ARL TREE BYLAW\Tree bylaw CAMBRIDGE

## **Newton MA tree bylaw**

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### Chapter 21

### **PARKS AND RECREATION, PUBLIC GROUNDS AND TREES\***

#### **Art. I. In General, §§ 21-1—21-45**

#### **Art. II. Parks and Recreation Commission, §§ 21-46—21-59**

#### **Art. III. Trees, §§ 21-60—21-89**

##### **Div. 1 Urban Tree Commission, §§ 21-60—21-71**

##### **Div. 2 Regulation of Public Trees, §§ 21-72—21-80**

##### **Div. 3 Tree Preservation, §§ 21-81—21-89**

### **ARTICLE III. TREES**

#### **DIVISION 3. TREE PRESERVATION**

##### **Sec. 21-80 Findings, intent, and purpose.**

The board of aldermen has determined that many trees are being lost without replacement incident to demolition of existing buildings in order to construct new buildings and lot clearing in connection with the construction of new buildings on previously undeveloped land. The Board has further determined that trees have been lost, severely damaged or disfigured through excessive or improper pruning or other than natural causes. The result is a net loss of the tree population in the city. The board has further determined that the city has insufficient legal vehicles to assure that such development adequately preserves, protects and provides for replacement of trees.

The preservation of the private tree canopy and the planting of replacement trees is intended to enhance the quality of life and the environment of the city; to preserve the character of the wooded and natural areas; to reduce energy consumption; to protect air quality; to baffle noise; to preserve and enhance habitat for wildlife; to reduce topsoil erosion and storm water runoff; to protect and increase property values; and to enhance the overall appearance of the city. (Ord. No. A-38, 05-05-14)

##### **Sec. 21-81. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Aggregate diameter*: The combined diameter of a multiple trunk tree measured at breast height.

*Building*: The term "building" shall be as defined in section 30-1.

*Certified arborist*: An arborist certified by the Massachusetts Arborists Association or International Society of Arboriculture, or any successor organization.

*Diameter breast height (DBH)*: The diameter of the trunk of a tree 4½ feet above the existing grade at the base of the tree.

*Drip line*: A vertical line running through the outermost portion of the crown of a tree and extending to the ground.

*Exempt lot*: A lot which meets all of the following criteria:

(1) The lot is occupied and used primarily as a dwelling for up to four families at the time any protected tree(s) are removed.

(2) The lot owner at the time of protected tree removal has owned the lot continuously for a minimum of ninety (90) days prior to the removal of any protected tree(s).

(3) The existing structure on the lot remains occupied as a dwelling with a person or persons living in it for eighteen consecutive months from the date any protected tree(s) are removed.

(4) The lot remains owned by the same person for eighteen consecutive months from the date any protected tree(s) are removed.

*Exterior work permit:* A permit or approval which is required in order to perform work on a vacant lot or to the exterior of a building on a lot, including, but not limited to the following: a building permit; a review of an alteration of contour of land if required pursuant to section 30-5(c)(1); curb cut and street opening permits; an order of conditions; certificates of appropriateness, nonapplicability, or hardship; a demolition permit pursuant to section 22-44; site plan approval pursuant to section 30-23; subdivision approval; a special permit pursuant to section 30-24; a comprehensive permit.

*Occupied Lot:* A lot containing a legally constructed, permanent structure, used primarily as a dwelling that is currently being legally occupied and lived in and used as a residence by a person or persons. The dwelling must have a functioning, legally permitted, permanent water service, permanent sanitary service, and permanent electrical service.

*Person:* Any person, firm, partnership, association, corporation, company or organization of any kind including, but not limited to, the person removing a protected tree as well as the owner of the real property from which the tree is removed. The definition of "person" shall not include the City of Newton.

*Protected tree:* Any tree having a diameter of eight inches (8") DBH or larger or having an aggregate diameter of fifteen inches (15") DBH or larger and which is located on land subject to the provisions of section 20-32.

*Pruning standards:* Standards for pruning as defined in the City of Newton Tree Management Manual, 1995 and any future amendments or revisions to the same.

*Remove (including removing and removal):* The cutting down of any protected tree and all other acts which cause the actual removal or the effective removal through damaging, poisoning or other direct or indirect actions resulting in the death of a protected tree, including, but not limited to, excessive or improper pruning.

*Tree Manual:* The City of Newton Tree Management Manual, 1995, and any future amendments and revisions to the same. (Ord. No. V-275, 12-6-99)

*Tree Warden:* The commissioner of parks and recreation or his designee. (Rev. Ord. 2007, § 20-31; Ord. No. A-38, 05-05-14)

## **Sec. 21-82. Applicability, permit or certificate of exemption required.**

(a) *Applicability:* The terms and provisions of this article shall apply to any protected tree located on land within the city not owned by the city, the commonwealth, or any independent authority of the commonwealth, or by the federal government except protected tree(s) located on an exempt lot pursuant to paragraphs (c) and (d) below.

(b) *Permit, certificate of exemption:* No person shall remove a protected tree on a non-exempt lot located on land subject to the provisions of this article, or commence legally permitted exterior work on any lot without first obtaining a tree permit or a certificate of exemption from the tree warden. Applications shall be made in writing on forms specified by the tree warden.

(c) *Exempt lot, certificate of exemption:* The owner of an exempt lot shall not be required to apply for a tree permit, provided however, that an owner of an exempt lot who seeks an exterior work permit must certify to the tree warden on form(s) provided by the tree warden, that as of the date on the form(s) the lot qualifies as an exempt lot and will remain an exempt lot for eighteen months following tree removal. There shall be no fee for filing a certificate of exemption.

(1) The tree warden shall determine whether a property is an occupied lot for the purposes of establishing exempt lot status. The property owner shall, if requested by the tree warden provide proof of ownership as well as a written statement confirming ownership and that a person or persons are living in the property.

(2) If lot ownership changes during the eighteen consecutive months following the removal of any protected tree(s) on an exempt lot, the new owner must apply for a tree permit and shall be required to replace any protected tree(s) that were removed. If, However, a change of ownership occurs on a lot for which an extension of exempt lot status for non-occupancy during construction has been issued within the eighteen months prior to the change in ownership, the person issued such extension shall apply for a tree permit and shall be required to replace any protected tree(s) that were removed.

(d) *Extension of exempted lot status:* If at any point during the eighteen consecutive months following the removal of any protected tree(s) the property is no longer an occupied lot, the current owner of the lot must apply for a tree permit. If the non-occupancy is due to legally permitted construction, the tree warden may grant an extension of exempt lot status for the duration of the construction, provided:

(1) The owner intends to own the lot for eighteen consecutive months from the date a certificate of occupancy is issued for the construction for which the extension was issued; and

(2) The property remains an occupied lot for eighteen consecutive months from the date a certificate of occupancy is issued for the construction for which the extension was issued.

(3) Upon request of an applicant for exempt lot status extension, the tree warden may also waive the requirement that the lot be continuously owned by the same owner for ninety (90) days prior to protected tree removal provided the owner intends to own the lot for twenty-one months from the date a certificate of occupancy is issued for the construction for which the extension is granted..

(4) If at any time during the applicable eighteen or twenty-one month period the lot ownership changes or the lot is not occupied, the tree warden shall revoke the tree permit and exempt lot status extension. The person issued the extension shall file a new tree permit application and shall replace any protected trees that were removed.

(5) Any person issued an extension of exempt lot status must report to the tree warden any change of ownership and any change of occupancy status within fifteen (15) days of the change if that change takes place during the applicable eighteen (18) month or twenty-one (21) month period following the date the certificate of occupancy issued. (Ord. No. A-38, 05-05-14)

### **Sec. 21-83. Permit application.**

(a) *Contents, fee:* An application for a tree permit shall be submitted to the tree warden. The application for a tree permit shall be accompanied by a fee in the amount of one hundred fifty dollars (\$150.00) and shall include, but not be limited to, the following:

(1) The shape and dimensions of the parcel of real property to be developed, together with the existing and proposed locations of structures and improvements, if any;

- (2) A tree plan showing the location, type and size of each protected tree indicating which protected tree(s) are to be removed, and the location, type and size of replacement trees;
- (3) The proposed relocation of any existing protected tree with a statement prepared by a certified arborist explaining how each such protected tree is to be relocated and maintained;
- (4) The location of existing and proposed underground or overhead utility services, existing and proposed roadways, bikeways, walkways and parking areas;
- (5) Any proposed grade changes which might adversely affect or endanger any protected tree with a statement prepared by a certified arborist explaining how each such protected tree shall be protected and maintained;
- (6) The proposed method of protecting the remaining protected trees during the course of the construction.

(b) *Review of permit applications:* The tree warden shall review applications for tree permits in accordance with the provisions of this article. The tree warden shall date stamp or otherwise record the date of filing of each application for a tree permit. The tree warden shall complete the review of each tree permit application no later than ten (10) business days after the submission of a completed application to the tree warden and shall report to the commissioner of inspectional services within ten (10) business days of a request with respect to any tree permit application submitted in connection with a building permit as to whether said tree permit has been granted or denied. If no such report is received by the commissioner within the above-stated time period, he shall accept an application for a building permit without receipt of such report.

(c) *Standards for grant or denial:* No tree permit shall be issued unless one of the following conditions exists:

- (1) The protected tree will be relocated or replaced on site.
- (2) The protected tree will be replaced by payment in lieu of planting replacement trees as outlined in section 21-86.
- (3) The protected tree is interfering with existing structures, utilities, streets, sidewalks or other existing improvements
- (4) The protected tree is dead, diseased, injured, in danger of falling, dangerously close to existing structures, is causing disruption of public utility service, is causing drainage or passage problems upon rights-of-way, or poses a threat to pedestrian or vehicular safety.
- (5) The removal of the protected tree is necessary and desirable in order to enhance or benefit the health or condition of other trees on the same site as certified to the tree warden by a certified arborist.
- (6) No protected tree(s) are to be removed from the site and appropriate tree protection measures will be in place where necessary as determined by the tree warden.

(d) *Conditions:* Upon the issuance of a tree permit, the tree warden may prescribe in writing such protective measures for existing protected trees as he deems necessary. Before site disturbance may begin, the tree warden may make a determination that the prescribed protective measures have been adequately provided.

(e) *Construction:* Except as provided in a tree permit, construction activities under the drip line of a protected tree are prohibited. Activities include, but are not limited to, trenching or grading,

storage of materials or equipment, passage of heavy equipment within the drip line and spillage of chemicals or other materials, which are damaging to trees.

(f) *Suspension or revocation*: A tree permit may be suspended or revoked at any time by the tree warden upon written notice to the permit holder that the permit holder has failed to comply with either this article or the conditions of the permit. The written notice shall be sent by certified or registered mail, return receipt requested, or by hand delivery and shall provide an opportunity for the permit holder to correct the noncompliance and apply for a renewal of the tree permit upon compliance, where practicable. The suspension or revocation of a tree permit in accordance with this subsection shall not affect the validity of a building permit issued in reliance upon the issuance (granting) of such tree permit nor shall such suspension or revocation be cause for withholding the issuance of a certificate of occupancy.

(g) *Appeal*: Any person aggrieved by a decision of the tree warden may file an appeal with the mayor or his designee. Said appeal must be in writing and must be received by the mayor or his designee within five (5) business days of issuance of the tree warden's decision. Upon receipt of such appeal, the mayor or his designee shall provide a copy to the clerk of the board of aldermen and to each alderman for the ward in which the trees are located. The mayor or his designee shall make a final decision on the matter within thirty (30) days from the date of receipt of the appeal. The mayor or his designee shall include in the decision the rationale therefor. Upon issuance of the final decision, the mayor or his designee shall provide a copy to the clerk of the board of aldermen and to each ward alderman for the ward in which the trees are located. There shall be no further appeal of the matter decided by the mayor or his designee. No protected trees shall be removed while an appeal is pending.

(Ord. No. V-275, 12-6-99; Ord. No. X-202, 04-03-06; Rev. Ord. 2007, § 20-33; Ord. No. A-38, 05-05-14)

#### **Sec. 21-84. Activities not requiring a permit.**

(a) *Pruning*: A permit is not required for the pruning of protected trees. However, in order to prevent excessive pruning and topping of trees and to prevent pruning that will be hazardous to the health and natural appearance of the tree, compliance with approved pruning standards is required, and failure to meet these standards is a violation of this article. The tree warden shall maintain on file at all times a copy of the current edition the Tree Manual and shall make copies of the Tree Manual available for the cost of reproduction upon request.

(b) *Emergencies*: If any protected tree shall be determined to be in a hazardous condition so as to immediately endanger the public health, safety or welfare or cause an immediate disruption of public services and require immediate removal without delay, oral authorization may be given by the tree warden to remove such tree, utilizing such professional criteria and technical assistance as he deems necessary, and the protected tree may be removed without obtaining a written permit as otherwise required by this article. The tree warden shall memorialize in writing each such oral authorization to remove a tree and keep a record of the same.

(c) *Waiver*: The requirements of this article may be waived by the tree warden during the period of an emergency such as a tornado, windstorm, flood or other act of God. (Ord. No. V-275, 12-6-99; Rev. Ord. 2007, § 20-34; Ord. No. A-38, 05-05-14)

**Sec. 21-85. Tree replacement.**

(a) *Required:* A protected tree shall be replaced in the manner provided in subsection (b) hereof in each instance in which a protected tree was removed from land subject to the provisions of section 21-82 without a tree permit.

(b) *Standards:* A person who has removed a protected tree and is required to replace such tree pursuant to subsection (a) hereof or as a condition of granting a tree permit in accordance with section 21-83, shall replace such tree within eighteen (18) months, or prior to transfer of property ownership whichever comes first from the date the tree permit is issued and in accordance with the following standards:

(1) A replacement tree shall be of the same or similar species or such other species as deemed advisable by the tree warden in accordance with the Tree Manual and shall have the same or equivalent size as measured in DBH inches as that of the protected tree that has been removed.

(2) In the event that a tree of the same or equivalent size as measured in DBH inches cannot be planted, then multiple smaller replacement trees may be planted provided that, wherever practicable, as determined by the tree warden, the total DBH of the replacement trees shall, when added together, equal the total DBH of the protected tree that has been removed. The tree warden may specify that replacement trees be of a minimum caliper when consistent with current accepted practice as stated in the Tree Manual.

(3) A replacement tree shall be required to survive for a minimum of one eighteen (18) months from the date it is planted. The person planting the tree shall provide documentation as to the date of planting and file the same with the tree warden within fifteen (15) days of the planting of said replacement tree.

(4) A replacement tree shall be planted on the same lot from which the tree was removed.. (Ord. No. V-275,

12-6-99; Rev. Ord. 2007, § 20-35, Ord. No. A-38, 05-05-14)

**Sec. 21-86. Tree replacement fund.**

(a) *Established:* There is hereby established a tree replacement fund which shall be held in a separate identifiable account and administered in accordance with applicable provisions of the General Laws. Any payments into the tree replacement fund required by this article shall be deposited in the tree replacement fund and shall be used in accordance with subsection (c) hereof.

(b) *Payment in lieu of planting replacement tree(s):* In lieu of planting a replacement tree as provided in section 21-85, a person who has been granted a tree permit may make a contribution to a tree replacement fund in an amount equal to the cost to replace the tree in accordance with the provisions of section 21-85, which cost shall be determined by the tree warden based on the City's current cost to purchase and install trees.

(c) *Maintenance of tree replacement fund:* The tree replacement fund shall be maintained in a separate account in accordance with state law. All sums deposited into such fund shall be used solely for the purpose of buying, planting and maintaining trees in the city. (Ord. No. V-275, 12-6-99; Rev. Ord. 2007, § 20-36; Ord. No. A-38, 05-

05-14)

**Sec. 21-87. Rule and regulations.**

The tree warden is authorized to promulgate reasonable rules and regulations to implement administration of sections 21-80 through 21-90. (Ord. No. A-38, 05-05-14)

#### **Sec. 21-88. Enforcement.**

(a) *Notice of violation:* Any person who violates any of the provisions of this article shall be notified by the tree warden of the specific violation by certified mail, return receipt requested, or by hand delivery. The notice shall set forth the nature of the violation and a reasonable time period within which compliance must be had. The tree warden shall send notice of violation of section 21-86), which notice shall include the date by which trees were to be replaced or payment was to be made for purposes of computing the "per day" violation fine, as provided in section 21-89.

(b) *Stop work order:*

(1) Upon notice from the tree warden that work on any protected tree, or lot on which a protected tree is located, is being performed contrary to the provisions of this article, such work shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work; and shall state the conditions under which work will be permitted to resume.

(2) The tree warden is also authorized to request the agency which has granted an exterior work permit to order, to the extent permissible by law, that the owner cease any activity pursuant to the exterior work permit that might affect such protected tree while a stop work order is pending.

(3) Any person who shall continue any work in or about the protected tree or lot on which a protected tree is located after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not more than three hundred dollars (\$300.00) for each such violation. Each day during which a violation exists shall constitute a separate offense.

(c) *Injunctive relief:*

(1) Whenever there exists reasonable cause to believe that a person is violating this article or any standards adopted pursuant to this article or any term, condition or provision of an approved tree permit, the city may, either before or after the institution of any other action or proceeding authorized by this article, institute a civil action in the name of the city for a mandatory or prohibitory injunction and an order of abatement demanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property.

(2) Upon determination of a court that an alleged violation is occurring, it shall enter such order or judgment as is necessary to abate the violation. The institution of an action for injunctive relief under this subsection shall not relieve any party to such proceedings from any civil penalty prescribed for violation of this article. (Ord. No. V-275, 12-6-99; Rev. Ord. 2007, § 20-37; Ord. No. A-38, 05-05-14)

#### **Sec. 21-89. Penalties.**

(a) *Removal without a permit:* Each instance in which a protected tree is removed without a permit shall constitute a violation of this article which shall be subject to a fine in the amount of three hundred dollars (\$300.00).

(b) *Failure to replace trees or make payment:* Each failure to replace a tree or make a payment into the tree replacement fund shall constitute a separate violation of this article which shall be subject to a fine in the amount of three hundred dollars (\$300.00). Each day such violation continues shall constitute a separate offense.

(c) *Failure to comply with a condition contained in a tree permit or stop work order:* Each instance where there is a failure to comply with a condition contained in a tree permit or stop work order shall constitute a violation of this article which shall be subject to a fine in the amount of three hundred dollars (\$300.00). Each day such violation continues shall constitute a separate offense.

(d) *City trees:* Nothing herein shall be construed to require the city to make a payment into the tree replacement fund for any tree(s) which it removes. (Ord. No. V-275, 12-6-99; Rev. Ord. 2007, § 20-38; Ord. No. A-38, 05-05-14)

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SELECTMEN'S OFFICE  
ARLINGTON, MA 02476

2016 MAR 16 AM 11:54

196 Wollaston Avenue  
Arlington, MA 02476

March 15, 2016

Arlington Board of Selectmen

Arlington Town Hall

730 Massachusetts Avenue

Arlington, MA 02476

Dear Select Board Members,

The attached material provides additional detail and information related to testimony I intend to provide in seeking your support of 2016 Warrant Article 30.

I will touch on some of the information contained here but it will not be the core of my testimony. It will take you about 15 minutes to read all of this and it may serve as a basis for questions you may ask in the course of my testimony.

I have already appeared before the Finance Committee and the Conservation Commission and responded to their questions on this Article.

The testimony I offer will focus on the importance of this request, its impact on our Town and to a great degree it's relationship to the pending East Arlington Mugar 40B project.

I look forward to my appearance before the Board and the opportunity to seek your support in moving this Article forward.

Respectfully submitted,



John Belskis TMM Pct. 18

**REFERENCE MATERIAL  
PROVIDED TO ARLINGTON  
BOARD OF SELECTMEN FOR  
MARCH 21, 2016 HEARING ON  
WARRANT ARTICLE 30 OF 2016  
TOWN WARRANT**

**SUPPORTING TESTIMONY OF PRECINCT 18  
TOWN MEETING MEMBER JOHN BELSKIS**

## **Index**

<b>Arlington and MGL c40B</b>	Single page synopsis of 40B related events over 40 years
<b>Arlington's Impressive Performance</b>	Our Town vs. other cities and towns
<b>The Magic Numbers of MGL c40B</b>	Two pages detailing skewed 40B accounting
<b>Meeting with Conservation Committee</b>	Two pages of material presented to the Con. Comm.
<b>Protected Open Spaces</b>	Two pages detailing utilization of Chapter 97
<b>DMH / DMR Housing Units</b>	A two page job aid to obtain land area of such units.
<b>Outstanding Issues and Concerns</b>	1.5% items that have not been addressed or responded to.

### **Arlington and MGL c40B**

- 1986 Town supported establishment of Arlington Housing Corporation and began a series of CDBG funding for utilization in providing affordable housing units.
- 2000 First 40B proposal withdrawn after abutters revealed hazardous conditions were incorrectly cited as a number of conditions were above State mandated levels for habitation dwellings.
- 2002 John Belskis appeared before BOS with an initial study citing attainment of 1.5% safe harbor status. Planning Department went through a number of conflicting assessments of the figures. Town Meeting passed Article 18 a Resolution to the Massachusetts Legislature seeking changes to MGL c40B
- 2005 Second 40B proposal Minuteman Village Brattle Street. 20 units w/ 4 provided as affordable. A subsequent State Inspector General audit found excess profits not returned to town. Despite the finding the Town never recovered the cited excess. Planning cited 1.17% as current 40B safe harbor level.
- 2006 A Warrant Article seeking to validate the 1.5% calculations passed Town Meeting and established a Geographic Information System (GIS) Committee to validate 1.5% calculation. Three citizen members appointed, town administrations never appointed their members! Planning cited 1.28% as the current affordable units land area.
- 2007 Local citizen files an Initiative Petition to repeal MGL c40B. Fails to acquire the required 70,000 signatures to create the repeal Bill.
- 2008 Local citizen again files a MGL c40B repeal Initiative Petition and 100,000 signatures are collected and the repeal Bill goes before the Legislature. They sit on the Bill until May and with an additional 15,000 collected the Petition is forced to placement on the 2010 Ballot. The Petition fails with the opposition spending over a dollar for each opposing vote while the proponents got over 900,000 votes at a cost of less than five cents per vote.
- 2010 Third Arlington 40B submitted for 17 Winter Street. Project was so outrageous and problematic that the developer eventually withdrew the application.
- 2012 Warrant Article 11 passed by Town Meeting that all special permit hearings before the ZBA must have testimony taken under oath and recorded.
- 2015 A Fourth Arlington 40B proposed for the Mugar property in E. Arlington. BOS send opposing letter to MassHousing the approving agency after hundreds of citizens attend a presentation in Arlington Town Hall.
- 2016 With support of an outside consultant informational meetings held with ZBA and they vote acceptance of the latest 1.5% safe harbor calculations.
- 2016 A Warrant Article is submitted seeking transfer of a property at 1 Gilboa from Town Ownership to Arlington Housing Authority ownership as an insurance that the 1.5% calculation is well above reproach. Hearings have been held with the Finance Committee and the Conservation Committee.

### Arlington's impressive performance

	Hsg Auth	Sec 8 *	Avg # of Hsg Auth units / # Of residents	SHI #	% Chg Since 06
Boston	2860	9657	An average of 1 per 206 residents (pop. 589,141) Sec 8 = 1 / 67	18.3%	-1.0%
Cambridge	2716	1763	An average of 1 per 37 residents (pop. 101,355) Sec 8 = 1 / 57	12.3%	=
Quincy	941	998	An average of 1 per 94 residents (pop. 88,205) Sec 8 = 1 / 88	9.6%	-0.4%
New Bedford	941	1603	An average of 1 per 100 residents (pop. 93,768) Sec 8 = 1 / 59	12.0%	-0.1%
Worcester	926	1587	An average of 1 per 186 residents (pop. 172,648) Sec 8 = 1 / 11	13.4%	-0.1%
Fall River	922	2080	An average of 1 per 100 residents (pop. 91,938) Sec 8 = 1 / 44	11.3%	=
Springfield	1069	2120	An average of 1 per 120 residents (pop. 152,082) Sec 8 = 1 / 72	16.2%	-1.1%
Chicopee	816	397	An average of 1 per 67 residents (pop. 54,653) Sec 8 = 1 / 14	10.2%	-0.2%
Somerville	1009	880	An average of 1 per 76 residents (pop. 76,210) Sec 8 = 1 / 87	9.7%	-0.1%
Framingham	834	678	An average of 1 per 90 residents (pop. 66,910) Sec 8 = 1 / 99	10.5%	+ 0.3
Brockton	781	804	An average of 1 per 120 residents (pop. 94,304) Sec 8 = 1 / 117	12.6%	- 0.3
Arlington	710	422	An average of 1 per 58 residents ** (pop. 42,389) Sec 8 = 1 / 100	5.6%	+0.4% ***

#### Notes

\* Section 8 Housing not counted as SHI

\*\* Only Cambridge has a better average / residents

\*\*\* Highest increase in SHI

## **THE MAGIC NUMBERS OF MGL c40B**

In October of 2015, through the intervention of the Secretary of State, to a request for a listing of the number of affordable units created with comprehensive permits, the Department of Housing and Community Development (DHCD) provided an Excel spreadsheet titled DHCD SUBSIDIZED HOUSING INVENTORY (SHI) dated 10-7-2015.

For some fifteen plus years, agencies and supporters of MGL c40B have been publishing and quoting numbers that many have assumed were factual and accurate. Unless there is some record at DHCD other than the information they provided with this recent document, there appears to be a vast disconnect between what is being quoted and the actuality of the SHI record of subsidized affordable housing provided through MGL c40B.

An analysis of this record provides an entirely different view of what agencies such as Citizens Housing And Planning Association (CHAPA) MassHousing, and a plethora of housing agencies across the State have provided as the viability of MGL c40B.

What the analysis indicates follows below:

It has been broadly quoted, "40B has provided upwards of 59,000 units of affordable housing". Total number of units per this record is 59,204 but a large number of records are duplicates for the same site and these totaled 15,706 units thereby indicating that the real number is more like 43,435 affordable units.

There is an even more questionable issue and that has to do with the accepted practice of counting 100% of a rental unit project as affordable when only 20% are required to be affordable. There are approximately 12,000 rental units in the SHI listing, thus if only 20% are actually affordable the SHI affordable unit count would be reduced about another 7,091 units. So if this accounting and logic is true, did MGL c40B in its 47 years of existence only provide 36,344 affordable units? That is an annualized production of about 773 units which if applied across our 351 cities and towns, says 40B provided an average of two units of affordable housing per each city and town. This is a success story???

In addition to the questionable SHI numbers, we must also consider the impact of expiring use. This is the situation whereby the affordable units subsidized funding debt has reached its payment maturity and may be reverted to market rate status. A Harvard University study from over 15 years ago and supported by DHCD records projected a loss of between 22,000 and 18,000 affordable units. To negate this tremendous loss of affordable units, the Legislature has been filing budget Bills to "preserve" the affordable units. These funds have involved hundreds of millions of dollars in the State Budget.

In each of the past three Legislative sessions literally hundreds of Bills have been filed seeking to improve MGL c40B by requiring things like deed recorded perpetuity of affordable units created with a comprehensive permit, an increased percentage of affordable units in order to qualify for a comprehensive permit, regionalized SHI planning and programs, etc. etc.. None of these Bills have ever emerged from the heavily lobbied Housing Committee.

There also remains the question of how status and progress is measured per a city or town as well as what is the true measure of affordable unit provisioning. The safe haven number

indicating that a city or town has accomplished a desired level of housing affordability is by MGL c40B definition 10% of its housing is deemed affordable or 1.5% of its build qualified land area is already occupied by affordable housing. These criteria are quite often contentions between developers and local government and resolution is sought through the Housing Appeals Committee (HAC) or the judicial system. A vast number of the HAC decisions are made on the basis of a "regional need for affordable housing" outweighing a city or town's denial or conditioning of a comprehensive permit.

Once again through an appeal with the Secretary of State's office a request for what was the HAC's defined region for the regional need criteria, The DHCD Council's office responded that the HAC's regions were the same as defined by Government's Department of Housing and Urban Development (HUD). A recent study appears to indicate that a number of our communities have lost at HAC when the HAC region in which they reside is above the 10% criteria. So what is the true objective? A region's 10% or a municipalities 10%? It has the appearance that the HAC uses whatever will favor the development industry's position.

Another area of "funny" numbers is the developer profit margins. The law allows a developer's MGL c40B project to earn a maximum of 20% over project costs. This is a form of incentive to developers to attract willingness to build affordable units. This is in addition to allowing them to ignore or circumvent what local bylaws exceed state standards. Where the national average for housing development runs around 12 % our incentive is generous.

But wait, the State Inspector General (IG) in a series of audits of 40B profits found serious instances of un-reported excess profits some of which were approaching 50% profit, yet none of these excesses were returned, as the law stipulates, to the involved town for their affordable housing programs. In testimony before the Joint Committee on Housing and before the Senate Post Audit and Oversight Committee the IG projected that as much as \$110 million dollars of excess profits have been denied to municipalities. We no doubt could have provided significant numbers of affordable units leveraging that amount of dollars.

Once again despite filed Bills, the Joint Committee on Housing has failed to release Bills calling for audits on MGL c40B project profits. This in the face of the fact that a number of towns have sued and recovered the millions of dollars of excess profits due them.

Isn't it time Massachusetts moves to emulate the other 46 States that create more affordable housing than what our dependence on the abusive MGL c40B has ?

My background - 16 yrs chair 40B Coalition - members in over 200 cities & towns - testified before Legislature - filed Bills - lobbied for reforms- panelist on many public and commercial TV - participant in conferences at Harvard Kennedy School of Government - MIT Real Estate Institute - had many published articles and op eds in many local, regional and national publications, I guess I may be considered an affordable housing expert and SME on MGL c40B especially paragraphs 20 -23.

40B as a law - 47 years old - original for rental housing - early 90's lobbied by development industry to include ownership units - very contentious passed by a single vote - it's a failure - 47 of 50 better that MA - current record statistically annualized 2 units / each city and town - closely controlled and heavily lobbied by development industry - unlike Arlington its regulations ( 760 CMR 50.00) do not include perpetuity of developed units or inclusionary zoning - not all 40B affordable units are affordable in rental projects. Section 8 affordable units not counted - manufactured homes not counted.

Arlington and 40B - at 5.6% SHI - (State at 9.3% SHI) - to attain 10% we need at least 4,000 more units - already 3rd densest town in State - done an admirable job w/ affordable provisioning - at 1.5% land area but number is yet to be certified by DHCD - 760 CMR 30.00 vs, 760 CMR 56.00) they don't want towns to get that relief! - that is why I sought solidifying the number with 1 Gilboa Road - 1.76 acres nothing to do with the other Chapter 97 land.

Understand the measurement process - Town, County and State record searches - excluded and non included properties - expiring use and conditions - GIS measurement - town's participation and efforts - apportionment of multi unit properties - exceptions yet to be adjudicated - easements - cemeteries -unregistered wetlands &

conservation land - DMH/DMR units- application of town bylaw regarding project bonding for Mugar -

AG Healy recently appointed **Christophe Courchesne** to serve as **Chief of the Environmental Protection Division**. Courchesne will join the Attorney General's Office following his role as a senior attorney at the Conservation Law Foundation's New Hampshire office. Prior to his work at the Conservation Law Foundation, Courchesne practiced environmental, energy, and land use law for more than five years as an associate at Goodwin Procter LLP in Boston. Courchesne previously served as a law clerk at the Massachusetts Supreme Judicial Court for Justice Robert J. Cordy. He is an alum of the BBA's Public Interest Leadership Program, has served as the chair of the Grafton Planning Board A graduate of Harvard Law School and the University of Massachusetts at Amherst, Courchesne resides in East Kingston, New Hampshire. Attorney Courchesne's paper *What Regional Agenda? Reconciling Massachusetts Affordable Housing Law and Environmental Protection*, written in May 2003 provides a great insight into 40B vs environmental concerns. Well worth your reading if you are dealing with a 40B project. I'll be happy to supply a copy for the Commission to copy but I can't afford to provide copies for all as it's 44 pages and Staples charges a lot per page. Or even easier you may access it on line at [http://www.law.harvard.edu/students/orgs/elr/vol28\\_1/courchesne.pdf](http://www.law.harvard.edu/students/orgs/elr/vol28_1/courchesne.pdf)

# PROTECTED OPEN SPACE - LEAVING LEGAL FOOTPRINTS

## *The Problem*

### **Town-owned conservation land and parkland may not be legally protected open space.**

Open Spaces across the Commonwealth may not be as protected from development as we thought. A recent ruling by the Massachusetts Supreme Judicial Court (June 2005 *Town of Hanson v. Lindsay*) found that land acquired for conservation purposes as stipulated in the Town Meeting Vote, but *not* subsequently reflected in the deed, can be “disposed”, (in this case it was sold), without going through a stringent public review process. In this particular case, the town meeting vote required that the deed reflect the conservation designation and when the deed did not have the conservation language, the court found that it was not conservation land, and not subject to Article 97.

## *Legally Protected Open Spaces*

### **Some Background**

Citizens of Massachusetts have a state constitutional *right to a clean environment* as first established under an amendment adopted in 1918. Subsequently, Article 97 of the Articles of Amendment to the Massachusetts Constitution provides that “the people shall have the right to clean air and water, freedom from excessive and unnecessary noise, and the natural, scenic, historic, and esthetic qualities of their environment.” “Lands and easements taken or acquired for such purposes shall not be used for other purposes or otherwise disposed of except by laws enacted by a two thirds vote, taken by yeas and nays, of each branch of the general court.” These public lands include both state-owned lands and municipal lands acquired for conservation or recreation purposes.

### **Article 97**

#### **Philosophy of Article 97 – 1973 Opinion of Attorney General Quinn:**

- Public has the right to clean air, water, freedom from excessive noise, natural, scenic, historic, esthetic qualities of their environment. (“The fulfillment of these rights is uniquely carried out by parkland acquisition.”)
- Land Protection: “the protection of the people in their right to the conservation, development and utilization of the agricultural, mineral, forest, water, air and other natural resources... in harmony with their conservation.”

The Quinn opinion broadly defines lands acquired for Article 97 purposes, asserts a wide definition of “natural resources” protected, gives examples of both conservation and recreation lands that are protected, and applies this protection to lands acquired both before and after the effective date of Article 97. “[W]hile small greens remaining as the result of constructing public highways may be excluded, it is suggested that parks, monuments, reservations, athletic fields, concert areas and playgrounds clearly qualify.”

### **Removing Land from Legal Protection under Article 97**

#### **EOEA Article 97 Disposition Policy - No Net Loss**

The policy of EOEA and its agencies is to protect, preserve and enhance all open space areas covered by Article 97 of the Articles of Amendment to the Constitution of the Commonwealth of Massachusetts. The goal of this policy is to ensure no net loss of Article 97 lands under the ownership and control of the Commonwealth and its political subdivisions (*i.e.*, municipalities and counties.) Exceptional circumstances must exist for EOEA and its agencies to support an Article 97 disposition. Determination of “exceptional circumstances” includes a finding that all options to avoid the Article 97 disposition have been explored and no feasible and substantially equivalent alternatives exist, including the evaluation of other sites for the proposed activity.

### EOEA's Disposition Process – Purposefully Onerous

- 1) Municipal conservation commission must vote that the land is surplus to its needs
- 2) Municipal park commission must vote the same if it is parkland in question
- 3) Town Meeting or City Council must also vote to remove the land from protected status
- 4) Municipality must file an Environmental Notification Form with EOEAs MEPA Unit
- 5) The disposition request must pass by a two-thirds vote of the Massachusetts Legislature and be signed by the Governor.

Finally, if the property was either acquired or developed with grant assistance from EOEAs Division of Conservation Services (DCS) (*i.e.*, Self-Help, Urban Self-Help or Land and Water Conservation Fund), the converted land must be replaced with land of equal monetary value and recreational or conservation utility. While conversions do occur, the process is purposefully onerous in an attempt to protect these conservation and recreation lands in perpetuity.

### ***A Solution – Research and Re-record***

#### **Research Acquisition History and Deed**

Research the acquisition history and deeds for all municipal conservation and parkland and identify those parcels that have affirmative Town Meeting Votes or City Council Orders stipulating that the land is for either conservation or recreation use, and deeds echoing that particular purpose for acquisition. You may discover some surprises as the research uncovers which lands have the most protection as “open space.” The deed may stipulate that the land is to be managed by the conservation commission or park commission, or that it was donated to the town with deed restrictions, or for park or conservation purposes. If the property was acquired or developed with DCS grant assistance, the grant agreement should have been recorded as an adjunct to the deed. The authorizing Town Meeting Vote or City Council Order may also be recorded as an adjunct to the deed (*i.e.*, request that the Register of Deeds or Land Court clerk make a marginal reference on the deed or title).

Consider the following:

- Some publicly owned lands can be sold or developed easily (with local legislative approval) either to private parties or for other public purposes. For example, school playgrounds and ballfields are often not protected parklands.
- Some deed restrictions may only last for a period of years (typically, 30 years) and not in perpetuity.

#### **The Fix - Record a Confirmatory Deed**

If you discover that the Town Meeting Vote or City Council Order authorizing the acquisition of a conservation property or park property stated that the land to be acquired was for either conservation or recreation use, but the accompanying deed does not reflect that intent, fix it by recording a corrective deed. Again, it may also be prudent to record the authorizing Town Meeting Vote or City Council Order as an adjunct to the deed.

#### **Sample for Conservation Land**

“...hereby grants to the TOWN OF \_\_\_\_\_, a Massachusetts municipal corporation, through its Conservation Commission for administration, control, and maintenance under the provisions of M.G.L., Chapter 40, §8C, as amended, with \_\_\_\_\_ covenants the land as bounded and described as follows:...”

#### **Sample for Parkland**

“...hereby grants to the TOWN OF \_\_\_\_\_, a Massachusetts municipal corporation, through its Park Commission (department) for administration, control, and maintenance under the provisions of M.G.L., Chapter 45, §3, as amended, with \_\_\_\_\_ covenants the land as bounded and described as follows:”

## JOB AID FOR PROVIDING LAND AREA INFORMATION OF DMH /DMR HOUSING UNITS LOCATED IN ARLINGTON

While the precise location of DMH /DMR units are for just cause protected from public identification, towns involved in detailing the land area of related units may only have the total count of such units resident in their municipality. This privileged information may be provide and remain anonymous if a DMH / DMR employee uses this process to identify property area, without exposing exact locations.

The Town's assessor's records are on line and may be accessed for a property search at <http://arlington.patriotproperties.com/default.asp>. Type in the street name in the street name block and a list of properties on that street will be displayed. scroll to the address containing a DMH /DMR unit and click on the Parcel ID number that appears in that first column. The next screen will display all of the property details and just above the Narrative Description and under Current Property Assessment and to the left will be displayed the land area in Acres. (Example below)

### Current Property Assessment

<u>Card 1 Value</u>	
Year <b>2015</b>	Building Value <b>184,400</b>
	Xtra Features Value <b>0</b>
Land Area <b>0.142 acres</b>	Land Value <b>242,400</b>
	Total Value <b>426,800</b>

In the attached form, record that figure. (Just that figure and no other information!) and repeat the above steps until all DMH / DMR units have had their location's land area figures recorded.

By simply recording each entity as "Property A, B, C, ....etc." with their land area figure and no specific address, it will satisfy the documentation required by the Department of Housing and Community Development, (DHCD) and the Housing Appeal Committee, (HAC) without exposing the exact location, keeping that information private.

**Land Area of DMH / DMR properties residing in Arlington**

	<b>Land Area Acres</b>	<b>Notes</b>
<b>Property A</b>		
<b>Property B</b>		
<b>Property C</b>		
<b>Property D</b>		
<b>Property E</b>		
<b>Property F</b>		
<b>Property G</b>		
<b>Property H</b>		
<b>Property I</b>		
<b>Property J</b>		
<b>Property K</b>		
<b>Property L</b>		
<b>Property M</b>		
<b>Property N</b>		
<b>Property O</b>		
<b>Property P</b>		
<b>Property Q</b>		
<b>Property R</b>		
<b>Property S</b>		
<b>Property T</b>		
<b>Property U</b>		
<b>Property V</b>		
<b>Property W</b>		
<b>Property X</b>		
<b>Property Y</b>		
<b>Property Z</b>		

## **OUTSTANDING ISSUES AND CONCERNS**

### **Data base and records related to MGL c40B**

How are the vital statistics recorded and maintained? Conflict resolutions?

### **Planning's role in ensuring MGL c40B safe harbor calculations are protected**

Process needs definition and commitment.

### **What is the Town's position regarding protecting safe harbor status?**

Is the target the 10% SHI level or is it the 1.5% land area?

### **Will the Town seek a DMH / DMR land area record?**

A simple job aid for collecting this record has been provided. Where has it gone?

### **Will the Conservation Commission impose the bonding requirement for comprehensive permit projects (like Mugar) when wetlands are involved?**

Town Meeting passed the bylaw but the Commission must impose.

### **Will the ZBA require sworn testimony for 40B hearings?**

Town Meeting passed the requirement but the ZBA must impose.



TOWN OF ARLINGTON

MASSACHUSETTS

## CONSERVATION COMMISSION

March 6, 2016

Kevin F. Greeley, Chair  
Board of Selectmen  
Town of Arlington  
720 Massachusetts Avenue  
Arlington, MA 02476

**RE: 2016 Annual Town Meeting Warrant 30:  
"Transfer of Town Property/1 Mount Gilboa Road"**

Dear Mr. Greeley and Members of the Board:

At its March 3, 2016, meeting, the Arlington Conservation Commission heard from Mr. John Belksis, the main proponent of Warrant Article 30, "Transfer of Town Property/1 Mount Gilboa Road", and members of the public; the Commission also had received many e-mails. The Commission discussed the article and then unanimously approved the following motion:

The Conservation Commission opposes Article 30 regarding the transfer of Mt. Gilboa property to the Arlington Housing Authority.

It is our responsibility to protect conservation land, and this proposal is very detrimental to that purpose.

Arlington has very little conservation land – about thirty acres total. The Mt. Gilboa conservation area at 10.7 acres is the largest and most attractive of those parcels. To transfer roughly 1.7 acres from the center and top of this would both reduce valuable conservation land and have a very negative impact on the remaining area. Also once the land is transferred, Article 97 protections will be lost and there is nothing to prevent future development of that site whatever current intentions might be.

The transfer also goes against the long range plan of the Conservation Commission to improve public access at the top of the hill with an accessible vista park.

We are supportive of affordable housing in appropriate locations, but Mt. Gilboa is not such a place.

Please contact me should you have questions.

Sincerely,

*/s/ Nathaniel Stevens*

Nathaniel Stevens, Chair

cc: A. Chapdelaine, Town Manager  
D. Heim, Town Counsel  
A. LeRoy, Chair, Open Space Committee



## Open Space Committee

March 7, 2016  
Kevin F. Greeley, Chair  
Board of Selectmen  
Town of Arlington  
720 Massachusetts Avenue  
Arlington, MA 02476

Dear Mr. Greeley and Members of the Board,

On behalf of the Open Space Committee, I would like to support the recent motion by the Conservation Commission to oppose Warrant Article 30 and to maintain permanent protection of all 10.7 acres of conservation land at Mt. Gilboa. We encourage the Board of Selectmen to vote no action on Warrant Article 30, which proposes to transfer a portion of the land to the Arlington Housing Authority.

While our committee also supports the provision of additional affordable housing in Arlington, this property is an inappropriate location for such a use.

The Town's current 2015-2022 Open Space and Recreation Plan specifically states among its goals to "protect, maintain, and enhance existing open spaces, including watersheds, waterbodies, and natural areas; parks, playgrounds and outdoor recreational facilities; and historic sites and cultural landscapes." Mt. Gilboa represents both a natural area and a cultural landscape, and it is included within the Mt. Gilboa Historic District.

The land is also protected under the state's Article 97, excerpted in part:

"It is the policy of EEA and its agencies to protect, preserve and enhance all open space areas covered by Article 97 of the Articles of Amendment to the Constitution of the Commonwealth of Massachusetts. Accordingly, as a general rule, EEA and its agencies shall not sell, transfer, lease, relinquish, release, alienate, or change the control or use of any right or interest of the Commonwealth in and to Article 97 land. The goal of this policy is to ensure no net loss of Article 97 lands under the ownership and control of the Commonwealth and its political subdivisions."

Thank you for your consideration of this Conservation Commission motion and of all the implications involved in any proposed transfer of currently protected open space into an incompatible use.

Sincerely,

A handwritten signature in cursive script, reading "Ann LeRoy".

Ann LeRoy, Chair  
Open Space Committee

Cc: Nathaniel Stevens, Chair, Conservation Commission  
Adam Chapdelaine, Town Manager  
Douglas Heim, Town Counsel

**From:** David White <dwhite@gilbertwhite.com>  
**To:** Marie Krepelka <MKrepelka@town.arlington.ma.us>  
**Date:** 02/11/2016 06:51 PM  
**Subject:** Re: Mt. Gilboa

---

Marie,

Thanks. But I don't understand how they can transfer the dwelling and other structures without affecting the land they occupy. Increasing the land area for affordable housing is I understand the reason for the article.

David W.

On 2/11/2016 6:41 PM, Marie Krepelka wrote:

David:

It is my understanding that the Warrant Article is about the dwelling - 1 Gilboa Road - and other structures (garage, etc.) to the Arlington Housing Authority for the perpetual use of the same for affordable housing purposes. It does not include the open space, etc. I will check on Tuesday with the Town Counsel and let you know if I am correct.

Kind regards.

Marie

Marie A. Krepelka  
Board Administrator  
Arlington Board of Selectmen  
730 Massachusetts Avenue  
Arlington, MA 02476  
Phone: 781-316-3022  
Fax: 781-316-3029  
[www.arlingtonma.gov](http://www.arlingtonma.gov)

-----Original Message-----

From: David White <dwhite@gilbertwhite.com>  
To: [mkrepelka@town.arlington.ma.us](mailto:mkrepelka@town.arlington.ma.us)  
Date: Thu, 11 Feb 2016 15:57:20 -0500  
Subject: Mt. Gilboa

Selectmen,

I understand that there a pending warrant article to transfer part of

the conservation  
land at Mt. Gilboa to the Arlington Housing Authority.

Arlington has very little conservation land (about 30 acres total), and the Mt. Gilboa area is one of the largest and most attractive spots. Increasing the housing impact in the very center of it will be very detrimental to human enjoyment of this natural area and affect its wildlife habitat value as well.

This seems like a very short-sighted attempt to address a perceived problem by sacrificing a very valuable resource. If one wanted to increase the affordable housing area in Arlington there are a number of other parcels (such as the Crusher lot) that would be more suitable - although I am not suggesting that. Only that this warrant is the wrong solution to a potential problem.

Thank you.

David White  
Arlington Conservation Commission

**From:** David White <dwhite@gilbertwhite.com>  
**To:** mkrepelka@town.arlington.ma.us  
**Date:** 02/11/2016 03:57 PM  
**Subject:** Mt. Gilboa

---

Selectmen,

I understand that there a pending warrant article to transfer part of the conservation land at Mt. Gilboa to the Arlington Housing Authority.

Arlington has very little conservation land (about 30 acres total), and the Mt. Gilboa area is one of the largest and most attractive spots. Increasing the housing impact in the very center of it will be very detrimental to human enjoyment of this natural area and affect its wildlife habitat value as well.

This seems like a very short-sighted attempt to address a perceived problem by sacrificing a very valuable resource. If one wanted to increase the affordable housing area in Arlington there are a number of other parcels (such as the Crusher lot) that would be more suitable - although I am not suggesting that. Only that this warrant is the wrong solution to a potential problem.

Thank you.

David White  
Arlington Conservation Commission

**From:** "Cheryl Dressler" <cheryl.dressler@comcast.net>  
**To:** <mkrepelka@town.arlington.ma.us>  
**Date:** 02/12/2016 10:42 AM  
**Subject:** Mt. Gilboa Conservation Land

---

Dear Board of Selectmen,

We are writing in response to a recent Warrant Article for "Transfer of Town Property" which proposes the conversion of some of the property on the Mt. Gilboa Conservation land to a site that can be credited as affordable housing. We strongly urge you to "move to take no action" on this proposal. Our family of four has lived on Westminster Avenue for almost 30 years. While the street in front of us is sometimes dangerous (note the chevron signs at one of the most notorious curves in the town), we have always had the woods behind us as a quiet, peaceful haven. At one point about 10 years ago, we needed to enlarge our house, and put an offer on a larger home on Clarendon St. Fortunately, nobody bought our house because during the time it was on the market, we realized that we could never leave these woods! And we see daily that many other visitors also have a deep appreciation for the woods. One day I ran into a nature preschool group, the Puddlestompers, who came all the way from Somerville just to explore and appreciate the Mt. Gilboa woods. There is another nature preschool based on Bow Street whose families walk regularly in the woods. Our son and daughter grew up picking blueberries on Mt. Gilboa, and making forts there. Our daughter once put on a play in the outcropping area, and neighbors came to watch, enjoying the view of Arlington and the smells and sounds of this lovely natural setting. Now my granddaughters make magical fairy houses in these precious woods.

With the publication of "Last Child in the Woods: Saving our children from Nature Deficit Disorder," Richard Louv brought attention to how plugged-in and out of touch with the natural world today's children are. I ask you to recognize the Mt. Gilboa conservation land for what it is, a treasure critical to the health of town residents, especially our children. Please reject this Warrant Article.

Best,

Cheryl and Rainer Dressler

**From:** Dan Dunn <dunster@dandunn.org>  
**To:** Susan Doctrow <srdoctrow@gmail.com>, Joe Curro <jcurro@alumni.tufts.edu>, Diane Mahon <dianemahon@verizon.net>, smbyrne1987@gmail.com, greelycom@aol.com  
**Cc:** Marie Krepelka <mkrepelka@town.arlington.ma.us>, Adam Chapdelaine <AChapdelaine@town.arlington.ma.us>, Jennifer Ryan <jennie.l.ryan@gmail.com>, jenjenroth@rcn.com, Leslie Mayer <blmayer@msn.com>, "David E. White" <whitede@gmail.com>, "Nathaniel (work) Stevens" <nstevens@mcgregorlaw.com>, Laura Wiener <lwiener@town.arlington.ma.us>, Ann LeRoy <annleroyer12@gmail.com>, dheim@town.arlington.ma.us  
**Date:** 02/16/2016 08:51 PM  
**Subject:** Re: Warrant Article 30: Transfer of Town Property

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Thanks for the feedback. Looking forward to the hearing.

Dan

On Sun, Feb 14, 2016 at 10:57 AM Susan Doctrow <[srdoctrow@gmail.com](mailto:srdoctrow@gmail.com)> wrote:

Dear Arlington Selectmen,

I am writing with great concern about the Warrant Article "Transfer of Town Property" submitted by 10 registered voters for this spring's Town Meeting.

As I understand it, the proponent, Mr. John Belskis, would like the Town to remove conservation protection from some land on Mt. Gilboa and allocate it for affordable housing, to provide additional assurance that Arlington will reach the 1.5% land area enabling exemption from Chapter 40b. While I very much appreciate Mr. Belskis' wish that our town, already so supportive of affordable housing, not be subject to Chapter 40b, I strongly object to his proposed solution.

My husband John and I have lived in the Mt. Gilboa neighborhood since 2003. Some of our neighbors, including Cheryl, Walter and Roy, have lived here much longer and were involved in the original efforts leading to protection of this natural resource by the Town. Another neighbor, Beth, wrote to us — during our neighborhood email list discussion of this Article last week — about her happy childhood memories exploring those woods. Others, Chris, Libby, Jennifer — representing three different households — wrote of the great importance of the conservation land in their very recent decisions to move here. One Mt. Gilboa neighborhood resident, Suzanne, is featured in the recently published book "Legendary Locals of Arlington" for the poetry board she established on the nice kiosk built on the site by Boy Scout volunteers. To say that this land has helped to define the character of our neighborhood is not an exaggeration. Enabling housing construction, or otherwise removing conservation protections, on any part of this beautiful and treasured wooded land would cause a terrible loss.

To be very clear, this is not an objection, in any way, to affordable housing. There is already other affordable housing being planned in our neighborhood, at 20 Westminster and (in Lexington) on Lowell Street, abutting Lexington Community Farm on the original Busa land. I support affordable housing, do not object to those residential projects and believe that most people in my welcoming neighborhood feel similarly. (I would like, in fact, to see affordable housing considered for the long-neglected, vacant and weeded, fenced lot in Downing Square.)

However, sacrificing our conservation land is a completely different matter. The Article's further proposal — that land in Arlington Great Meadows be placed under conservation restriction to make up for this loss in Mt. Gilboa — is not an acceptable alternative, even if were a technically legal remedy. It completely overlooks the harm that disrupting this conservation land would do to the character of our Mt. Gilboa neighborhood. Plus, Arlington Great Meadows is already open space, so the net result of this

action would be removing precious open space from our broader community. I believe that this would be in direct conflict with Arlington's commitment to protect its open space, as outlined in our Open Space and Recreation Plan and Master Plan. In the former, which "reflects Arlington's intention to preserve, protect, and enhance its valued open spaces," one of the five Action Plan (2015-2022) priorities is "Land Protection". The Master Plan declares that "open spaces and the benefits of natural resources are a treasured commodity within densely developed communities."

So, I urge you, please, to protect the Mt. Gilboa neighborhood and our broader community's open space by recommending "no action" on this Article.

Sincerely,

Sue Doctrow

99 Westminster Ave

Town Meeting Member, Precinct 21

cc. Maria Krepelka, BoS Administrator; Adam Chapdelaine, Town Manager; Jennifer Rothenberg (chair) and Leslie Mayer, Arlington Park and Recreation Commission; Nathaniel Stevens (chair) and David White, Arlington Conservation Commission; Jennifer Ryan (president), Arlington Land Trust; Laura Weiner (interim director), Arlington Planning and Community Development; Ann LeRoy (chair), Arlington Open Space Committee; Doug Helm, Town Counsel

**From:** Leslie Mayer <blmayer@msn.com>  
Dan Dunn <dunster@dandunn.org>, Joe Curro <jcurro@alumni.tufts.edu>, Diane Mahon  
**To:** <dianemahon@verizon.net>, "smbyrne1987@gmail.com" <smbyrne1987@gmail.com>,  
"greelycom@aol.com" <greelycom@aol.com>  
Marie Krepelka <mkrepelka@town.arlington.ma.us>, Adam Chapdelaine  
<achapdelaine@town.arlington.ma.us>, Jennifer Ryan <jennie.l.ryan@gmail.com>,  
**Cc:** "jenjenroth@rcn.com" <jenjenroth@rcn.com>, "David E. White" <whitede@gmail.com>, Nathaniel work  
Stevens <nstevens@mcgregorlaw.com>, Laura Wiener <lwiener@town.arlington.ma.us>, Ann LeRoy  
<annleroyer12@gmail.com>, "dheim@town.arlington.ma.us" <dheim@town.arlington.ma.us>,  
"srdoctrow@gmail.com" <srdoctrow@gmail.com>  
**Date:** 02/17/2016 01:04 AM  
**Subject:** RE: Warrant Article 30: Transfer of Town Property

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Dear Selectmen,

As an advocate for open space and recreational land, a nearly 50-year resident of the Mt. Gilboa neighborhood, an active participant in community affairs, and descendent of colonial-era landowners in the area (Cutter & Winship), I would like to add my support for Sue Doctow's thoughts and concerns about Article 30. Mt. Gilboa is a valued natural resource and needs to maintain its protected status as community open space.

From the Town's Open Space and Recreation Plan 2015-2022:

- "The Town of Arlington is a densely populated suburban community with few large open spaces remaining within its borders and limited direct access to open space resources in adjacent towns. The need to preserve, protect, and properly maintain existing open spaces and recreational resources is widely recognized and deeply felt by Arlington residents."
- "Arlington's open space is a precious and limited resource that has been difficult to acquire, develop, and maintain"
- "Several surveys conducted by the Open Space Committee over recent years and by Vision 2020 in 2014 indicate strong interest in natural open space areas for passive recreation, including walking, bird watching, and quiet contemplation."

From Arlington's Master Plan, endorsed by Town Meeting in 2015:

- "Arlington's residents have strongly expressed how much they value the Town's natural resources, water bodies and other open spaces, and they support their preservation, protection and maintenance."
- "Arlington residents have been remarkably consistent about the town's natural resource protection needs. Residents believe that Arlington should protect, improve and maintain the open spaces that it currently owns..."

Sue has highlighted other neighborhood opportunities for increasing affordable housing in the neighborhood. In the Town's Master Plan, the #1

Housing Goal is to "Encourage mixed-use development that includes affordable housing, *primarily in well established commercial areas.*" The Planning Dept. is currently visioning a Housing Production Plan with a public forum that was held just a couple of weeks ago. Does Mt. Gilboa really fit with the overarching vision for creating the kind of affordable housing that the Master Plan envisions?

I believe that it would be short-sighted to remove open space protection from Mt. Gilboa land and move forward with this land transfer. Development mistakes can have a long lasting effect and at times unintended consequences (i.e. rechanneling Mill Brook to allow the development of the Colonial Village Apartments, paving over the brook to create parking at the apartments on Old Colony Lane).

Finally, from the Town bylaws:

**"ARTICLE 15: CONSIDERATION OF VISION 2020 GOALS**

ART. 20 ATM 5/5/93

All Town officials including, but not limited to the Board of Selectmen, Town Manager, School Committee, and Superintendent of Schools shall consider the Goals of Vision 2020 as delineated in Article 19 of the 1993 Annual Town Meeting, or as same is subsequently amended by any future town meeting, in establishing their respective policies and in performing their various public functions."

One of these goal statements for the Environment is that "We value the physical beauty and natural habitats of our Town—parks, ponds, and wetlands, dramatic vistas and tree-lined streets—as they contribute to the well-being of our community. Recognizing the fragility of our natural resources, we must ensure that Arlington's residential areas, commercial centers and infrastructure are developed in harmony with environmental concerns. We will be known for our commitment to the preservation of Arlington's beauty, limited open space and resources, as well as our place in the regional and global community."

Mt. Gilboa should retain its protection in support of this Town goal. I strongly urge you to vote "No Action" on Article 30.

Thank you for your consideration,  
Leslie Mayer  
Crescent Hill Ave. resident  
TMM Pct. 21

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From: srdoctrow@gmail.com  
Subject: Warrant Article 30: Transfer of Town Property  
Date: Sun, 14 Feb 2016 10:57:03 -0500

CC: mkrepelka@town.arlington.ma.us; AChapdelaine@town.arlington.ma.us;  
jennie.l.ryan@gmail.com; jenjenroth@rcn.com; blmayer@msn.com;  
whitede@gmail.com; nstevens@mcgregorlaw.com; lwiener@town.arlington.ma.us;  
annleroyer12@gmail.com; dheim@town.arlington.ma.us  
To: dunster@dandunn.org; jcurro@alumni.tufts.edu; dianemahon@verizon.net;  
smbyrne1987@gmail.com; greelycom@aol.com

Dear Arlington Selectmen,

I am writing with great concern about the Warrant Article "Transfer of Town Property" submitted by 10 registered voters for this spring's Town Meeting.

As I understand it, the proponent, Mr. John Belskis, would like the Town to remove conservation protection from some land on Mt. Gilboa and allocate it for affordable housing, to provide additional assurance that Arlington will reach the 1.5% land area enabling exemption from Chapter 40b. While I very much appreciate Mr. Belskis' wish that our town, already so supportive of affordable housing, not be subject to Chapter 40b, I strongly object to his proposed solution.

My husband John and I have lived in the Mt. Gilboa neighborhood since 2003. Some of our neighbors, including Cheryl, Walter and Roy, have lived here much longer and were involved in the original efforts leading to protection of this natural resource by the Town. Another neighbor, Beth, wrote to us — during our neighborhood email list discussion of this Article last week — about her happy childhood memories exploring those woods. Others, Chris, Libby, Jennifer — representing three different households — wrote of the great importance of the conservation land in their very recent decisions to move here. One Mt. Gilboa neighborhood resident, Suzanne, is featured in the recently published book "Legendary Locals of Arlington" for the poetry board she established on the nice kiosk built on the site by Boy Scout volunteers. To say that this land has helped to define the character of our neighborhood is not an exaggeration. Enabling housing construction, or otherwise removing conservation protections, on any part of this beautiful and treasured wooded land would cause a terrible loss.

To be very clear, this is not an objection, in any way, to affordable housing. There is already other affordable housing being planned in our neighborhood, at 20 Westminster and (in Lexington) on Lowell Street, abutting Lexington Community Farm on the original Busa land. I support affordable housing, do not object to those residential projects and believe that most people in my welcoming neighborhood feel similarly. (I would like, in fact, to see affordable housing considered for the long-neglected, vacant and weeded, fenced lot in Downing Square.)

However, sacrificing our conservation land is a completely different matter. The Article's further proposal — that land in Arlington Great Meadows be placed under conservation restriction to make up for this loss in Mt. Gilboa — is not an acceptable alternative, even if were a technically legal remedy. It completely overlooks the harm that disrupting this conservation land would do to the character of our Mt. Gilboa neighborhood. Plus, Arlington Great Meadows is already open space, so the net result of this action would be removing precious open space from our broader community. I believe that this would be in direct conflict with Arlington's commitment to protect its open space, as outlined in our Open Space and Recreation Plan and Master Plan. In the former, which "reflects Arlington's intention to preserve, protect, and enhance its valued open spaces," one of the five Action Plan (2015-2022) priorities is "Land Protection". The Master Plan declares that "open spaces and the benefits of natural resources are a treasured commodity within densely developed communities."

So, I urge you, please, to protect the Mt. Gilboa neighborhood and our broader community's open space by recommending "no action" on this Article.

Sincerely,

Sue Doctrow

99 Westminster Ave

Town Meeting Member, Precinct 21

cc. Maria Krepelka, BoS Administrator; Adam Chapdelaine, Town Manager; Jennifer Rothenberg (chair) and Leslie Mayer, Arlington Park and Recreation Commission; Nathaniel Stevens (chair) and David White, Arlington Conservation Commission; Jennifer Ryan (president), Arlington Land Trust; Laura Weiner (interim director), Arlington Planning and Community Development; Ann LeRoy (chair), Arlington Open Space Committee; Doug Helm, Town Counsel

**From:** Chris <tr554@hotmail.com>  
"mkrepelka@town.arlington.ma.us" <mkrepelka@town.arlington.ma.us>, "smbyrne1987@gmail.com" <smbyrne1987@gmail.com>, "jcurro@alumni.tufts.edu" <jcurro@alumni.tufts.edu>,  
**To:** "dunster@dandunn.org" <dunster@dandunn.org>, "Greeleycom@AOL.com" <Greeleycom@AOL.com>, "dianemahon@verizon.net" <dianemahon@verizon.net>  
**Date:** 02/17/2016 09:35 PM  
**Subject:** Mount Gilboa Article

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Dear Board of Selectmen,

We are writing to express our opposition to an article that is being proposed regarding the Transfer of Property, Mount Gilboa, from the Town to the Housing Authority. We recently learned of the article which was presented to the Finance Committee this past week.

We officially moved to [88 Westminster Avenue](#) just over two weeks ago. One of the major reasons that we chose to move to this specific neighborhood was due to the readily available conservation land balanced with easy access to public transportation and amenities along Massachusetts Avenue. We already walk our dog through Mount Gilboa regularly and have been looking forward to walking with our daughter, once she starts toddling, just down the street from our home to teach her about nature in this conservation land.

We also believe that turning this open space into housing is a slippery slope that could end in a loss of valuable and scarce conservation land throughout Arlington. If first Mount Gilboa, which park or conservation land will be next to go? We need to preserve what little open space we have left. Once we lose open spaces like Mount Gilboa we will not get them back.

There are many properties in Arlington that are in need of revitalization. Why not upgrade these into affordable housing rather than take away our precious open spaces? This would contribute to improving areas of Arlington, unlike removing the parks that are a draw for so many families like us. The unique mix of open spaces and easily accessible conveniences is a large part of what makes Arlington a unique and desirable place to live. We hope it does not lose this character and that we can raise our family here for years to come.

We ask you to please strike down this and any future articles related to the transfer of Mount Gilboa to anything other than conservation land.

Thank you for your time and consideration.

Sincerely,

Christopher and Alexandra Rowell  
[88 Westminster Avenue](#)  
[Arlington, MA](#)

**From:** Helene Ragovin <hragovin@gmail.com>  
**To:** smbyrne1987@gmail.com, jcurro@alumni.tufts.edu, dunster@dandunn.org, Greeleycom@aol.com, dianemahon@verizon.net  
**Cc:** mkrepelka@town.arlington.ma.us, achapdelaine@town.arlington.ma.us, dheim@town.arlington.ma.us  
**Date:** 02/18/2016 04:13 PM  
**Subject:** Mt. Gilboa warrant article

---

Dear Arlington Selectmen,

My family and I have lived on Mt. Gilboa since 2000. I am writing to express my strong opposition to the warrant article, "Transfer of Town Property" that seeks to change the status of the conservation land adjacent to our neighborhood. This proposal is not only detrimental to our area, but to the town as a whole, and to the vision of what our town values.

When my son was very little, we used to go exploring in the Mt. Gilboa conservation land, and he would refer to it as "The Hundred Acre Wood," from the Winnie the Pooh stories. Indeed, it is a magical place--a small swath of calm and green space, large enough to lose yourself and your thoughts; a haven for wildlife. As my son grew, the conservation land became his path to Peirce School; a place to play with neighborhood friends; a relaxing space to walk our dog. The fact that we can live so close to Boston, and yet have the woods at our doorstep, was one of the many things that attracted us here.

Of course, while the conservation land is convenient for us, it is open to everyone in Arlington, and helps maintain a small pocket of open, undeveloped space in an already tightly populated place. Our small town can scarcely afford to lose any of the dedicated open land we have.

This warrant article seeks to reclassify the Mt. Gilboa land for affordable housing. I am a tremendous supporter of affordable housing. As I'm sure you know, there is an affordable housing project underway at 20 Westminster, the gateway to our neighborhood.

But I am extremely dismayed that this article pits two desirable town goals against each other. Our choice should not be "open space" vs. "affordable housing." Our goal, as a forward-thinking and progressive town, should be have both open space AND affordable housing. One does not need to be sacrificed for the other--I cannot tell you how strongly I feel about this.

Overall, this is a most unnecessary and ill-conceived proposal, and I urge the Board of Selectmen not to endorse it.

Sincerely,

Helene Ragovin James  
82 Westmoreland Ave  
Arlington, MA 02474  
781-648-4863

**From:** Suzanne McL <suzmcl61@gmail.com>  
**To:** smbyrne1987@gmail.com, jcurro@alumni.tufts.edu, dunster@dandunn.org, Greeleycom@AOL.com, dianemahon@verizon.ne  
**Cc:** mkrepelka@town.arlington.ma.us  
**Date:** 02/18/2016 07:27 AM  
**Subject:** Mt Gilboa

---

Dear Selectmen,

I oppose the transfer of the Mt Gilboa conservation land from protection under Article 97 to management by HCA. I think it would be short-sighted to give up one of Arlington's remaining undeveloped open spaces, and only publicly accessible wooded hilltop, for a purpose that can be met in other ways. The Mt Gilboa land is irreplaceable. It is a reason people move to and stay in our town (myself included!). It is home to wildlife, and enjoyed by families and visitors to Arlington everyday.

I am so proud of Arlington for having had the foresight and courage to protect the Mt Gilboa land, especially as the years go by and we learn more about how crucial our access to undeveloped land is to our mental, physical, social, spiritual, and environmental health. Please continue to uphold those values!

I believe this proposal is about meeting the town's requirement for 1.5% land for affordable housing (if it hasn't already been met by the Westminster Ave project). I believe there are developed, but currently un or under used places in town that are better suited for affordable housing.

I am sure that the Board, and the citizens, and town committees of Arlington have the imagination going forward to meet the towns' needs in ways that don't sacrifice this treasure, and can preserve the Mt Gilboa land, including the land where the Hayden house sits, as open conservation space.

Thank you,  
Suzanne McLeod  
61 Madison Ave.

**From:** Laura Shakun <laurash3@gmail.com>  
**To:** smbyrne1987@gmail.com, jcurro@alumni.tufts.edu, dunster@dandunn.org, Greeleycom@aol.com, dianemahon@verizon.net  
**Cc:** mkrepelka@town.arlington.ma.us  
**Date:** 02/19/2016 04:20 PM  
**Subject:** Mt Gilboa

---

Dear Selectmen,

I oppose the transfer of the Mt Gilboa conservation land from protection under Article 97 to management by HCA. It would be misguided to give up one of Arlington's remaining undeveloped open spaces, and only publicly accessible wooded hilltop, for a purpose that can be met in other ways. Mt. Gilboa is precious as it is home to wildlife, and enjoyed by families and visitors to Arlington everyday. Closeby conservation areas are a significant part of what makes our town appealing to residents and potential newcomers.

I hope that the Board, and the citizens, and town committees of Arlington have wisdom to meet the towns' needs in ways that don't sacrifice this treasure of nature. I appeal to you to preserve Mt Gilboa land, including the land where the Hayden house sits, as open conservation space.

Thank you,  
Sincerely,  
Laura Shakun  
141 Newland Road

**From:** glroby@comcast.net  
**To:** smbyme1987@gmail.com, jcurro@alumni.tufts.edu, dunster@dandunn.org, greeleycom@aol.com, dianemahon@verizon.net  
**Cc:** mkrepelka@town.arlington.ma.us  
**Date:** 02/20/2016 10:36 AM  
**Subject:** Mt. Gilboa

---

Dear Selectpersons,

Please allow our town to continue the protection of Mt. Gilboa conservation land under Article 97. It is a very valuable natural space in our busy town. Although I live at a fair distance, I walk to and through these woods quite often, and it is the best way to begin a day. I also see from reading the haiku board (at the trailhead near the top of Crescent Hill Ave.) how healing and re-enlivening the woods are to many others. I am glad to see the possibility of affordable housing at Five Corners and other unwooded parcels, but please don't let anyone destroy the sanctum of Mt. Gilboa woods.

Thank you.  
Gayle Roby  
49 Florence Ave.

**From:** Tisha Stima <tishastima@hotmail.com>  
Dan Dunn <dunster@dandunn.org>, Joe Curro <jcurro@alumni.tufts.edu>, Diane Mahon  
**To:** <dianemahon@verizon.net>, "smbyrne1987@gmail.com" <smbyrne1987@gmail.com>,  
"greeleycom@aol.com" <greeleycom@aol.com>  
Marie Krepelka <mkrepelka@town.arlington.ma.us>, Adam Chapdelaine  
<achapdelaine@town.arlington.ma.us>, Jennifer Ryan <jennie.l.ryan@gmail.com>,  
**Cc:** "jenjenroth@rcn.com" <jenjenroth@rcn.com>, Leslie Mayer <blmayer@msn.com>, "David E. White"  
<whitede@gmail.com>, Nathaniel work Stevens <nstevens@mcgregorlaw.com>, Laura Wiener  
<lwiener@town.arlington.ma.us>, Ann LeRoy <annleeroy12@gmail.com>,  
"dheim@town.arlington.ma.us" <dheim@town.arlington.ma.us>  
**Date:** 02/20/2016 08:26 AM  
**Subject:** Warrant Article 30 regarding transfer of Mt. Gilboa town property

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Dear Arlington Selectmen,

I am writing to join the voices of my neighbors who have expressed concern about and opposition to the Warrant Article "Transfer of Town Property" submitted by 10 registered voters for this spring's Town Meeting.

My opposition is in no way an objection to affordable housing. Rather, my intent is to preserve the Mt. Gilboa conservation land and its great benefits to my family, our neighborhood, and our larger Arlington community.

As I understand it, the warrant article asks the town to remove conservation protection from some land on Mt. Gilboa, which includes the existing house, and allocate it for affordable housing, in an effort to assure that Arlington will reach the 1.5% land area enabling exemption from Chapter 40b. Again, while I very much support Arlington's commitment to affordable housing, I strongly object to this proposed solution. There is another affordable housing project underway in our neighborhood (Lowell St at the Peter Pan intersection), and I support that initiative and welcome similar projects that make our neighborhood more accessible to everyone.

However, I oppose such projects that would sacrifice our conservation land in Arlington. That is simply not an acceptable solution. As I understand the warrant article, some land in Arlington Great Meadows would be placed under conservation restriction to make up for this loss in Mt. Gilboa. That, too, is unacceptable, and I ask that you confirm its potential conflict with Arlington's commitment to protect open space (Open Space and Recreation Plan and Master Plan).

Not only will moving forward with the proposal disrupt existing conservation land--and the wildlife in and

around the land--but it will irrevocably change the character of the Mt. Gilboa neighborhood and take away the precious benefits those woods provide to our children, families, and neighbors. Few other communities can boast the breadth and richness of experiences we have here in our Mt. Gilboa neighborhood, all within walking distance: access to public transportation, grocery stores, pharmacy, retail, and restaurants; public spaces for our friends, families and neighbors to gather at parks and playgrounds; summer swimming at the Reservoir Beach; and the magical woods of Mt. Gilboa. When we first moved to the Mt. Gilboa neighborhood after living for several years in different parts of Arlington, we were immediately struck by all of these gifts, and the welcoming community of neighbors. Our children walk together through the woods to the Peirce elementary school, learning, playing and making memories as they romp through the woods--vast and enchanting and familiar and THEIRS.

This is what the warrant article will take away. The new memories it will create will be about the town's disregard for its open space and neighborhoods. I ask you, which is the legacy you would rather leave?

I respectfully ask you to protect the Mt. Gilboa neighborhood and our broader community's open space by recommending "no action" on this warrant article.

Thank you for your consideration,

Tisha Stima  
10 Montague Street, Arlington

**From:** <jenyfur\_lb@yahoo.com>  
"Greeleycom@AOL.com" <Greeleycom@AOL.com>, "dianemahon@verizon.net"  
<dianemahon@verizon.net>, "dunster@dandunn.org" <dunster@dandunn.org>,  
**To:** "jcurro@alumni.tufts.edu" <jcurro@alumni.tufts.edu>, "smbyrne1987@gmail.com"  
<smbyrne1987@gmail.com>  
**Cc:** "mkrepelka@town.arlington.ma.us" <mkrepelka@town.arlington.ma.us>  
**Date:** 02/21/2016 07:24 PM  
**Subject:** Mt Gilboa -Warrant Article

---

Dear Arlington Selectmen,

This letter raises my concern regarding the Warrant Article, "Transfer of Town Property", submitted for Town Meeting that proposes to remove the conservation restriction on town-owned land on Mt Gilboa. I am a nearby property owner, residing at 51 Orient Ave, Arlington, MA. Please vote "no action" on this article and protect the Mt Gilboa Conservation land from development.

My understanding of the proposal is as follows: Mr. John Belskis, would like the Town to remove conservation protection from town-owned land on Mt. Gilboa and allocate it for affordable housing to provide additional assurance that Arlington will reach the 1.5% land area enabling exemption from Chapter 40b.

I am a first time property owner and appreciate the need for affordable housing in all communities. It was a stretch for me, a single woman, to buy a condo in Arlington. At the same time, I am adamant that destroying greenspace to create affordable housing is not the correct path forward for Mt Gilboa, for Arlington or for the environment. Once the land is developed, it will never again be available as conservation land. There is no going back.

When I was looking at properties, nothing I was seeing felt right until I found the Mt. Gilboa neighborhood with its tremendous charm and uniqueness. I first looked at what is now my property on Orient Ave. on Mothers' Day. When I walked up the hill I found the treasured conservation land of Mt. Gilboa and immediately felt grounded, happy and relaxed. It was a perfect match, being only eight miles from the city, all the arts, culture, education and such a close connection with nature. The conservation land is its own classroom as well. I have seen kids as young as 6 and 8 having a treasure hunt, for what you may wonder, trash. They were looking under rocks, under logs and off the beaten path. I do not recall the exact explanation they gave but it was something like 'We do not want the animals to get sick and you would not want trash on the floor of your home. This is their home.' It was very sweet and endearing and reminded me; they are correct we, all have to take care of our land. I have seen kids learning how to scurry up trails, pointing out animals and being inquisitive about nature and learning there is more the world than concrete. It is a magical place, a natural museum for exploring, learning, and imagination. A place where technology is left behind and they can simply play. If we do not have nature we cannot learn to respect it.

"I went to the woods because I wished to live deliberately, to front only the essential facts of life, and see if I could not learn what it had to teach..." - Thoreau

Kind Regards,  
Jennifer L. Brown  
51 Orient Ave  
Precinct 21 - Mt. Gilboa

**From:** Alisa Pascale <alisapascale@gmail.com>  
**To:** Dan Dunn <dunster@dandunn.org>, Joe Curro <jcurro@alumni.tufts.edu>, Diane Mahon <dianemahon@verizon.net>, smbyrne1987@gmail.com, greeleycom@aol.com  
Marie Krepelka <mkrepelka@town.arlington.ma.us>, Adam Chapdelaine <AChapdelaine@town.arlington.ma.us>, Jennifer Ryan <jennie.l.ryan@gmail.com>, jenjenroth@rcn.com, Leslie Mayer <blmayer@msn.com>, "David E. White" <whitede@gmail.com>,  
**Cc:** "Nathaniel (work) Stevens" <nstevens@mcgregorlaw.com>, Laura Wiener <lwiener@town.arlington.ma.us>, Ann LeRoyer <annleroyer12@gmail.com>, dheim@town.arlington.ma.us, cbeckwith@town.arlington.ma.us, Doctrow Susan <srdoctrow@gmail.com>, David Rines <rinesarbor@gmail.com>  
**Date:** 02/27/2016 11:45 AM  
**Subject:** Warrant Article "Transfer of Town Property"

---

February 27, 2016

Dear Arlington Selectmen,

We are writing with great concern about the Warrant Article "Transfer of Town Property" submitted by 10 registered voters for this spring's Town Meeting.

We DO NOT support this transfer of town property, which threatens precious open space so limited in our neighborhood and our town.

While we support the use of available buildable land for affordable housing, we do not support sacrificing land set aside for conservation, land that was put aside in recent time by many current neighbors and town officials for the purpose of open space.

The Warrant Article is also in direct conflict with Arlington's commitment to protect its open space, as outlined in our Open Space and Recreation Plan and Master Plan (2015-22), which prioritized "Land Protection" reflecting "Arlington's intention to preserve, protect, and enhance its valued open spaces." The Master Plan declares, "open spaces and the benefits of natural resources are a treasured commodity within densely developed communities."

Also of note, there is already other affordable housing being planned in our neighborhood, at 20 Westminster and (in Lexington) on Lowell Street, abutting Lexington Community Farm on the original Busa land. We would also support affordable housing at the long-neglected, vacant and weeded, fenced lot in Downing Square.

We urge you, please, to protect the Mt. Gilboa neighborhood and our broader community's open space by recommending "no action" on this Article.

Sincerely,

Alisa Pascale & David Rines

109 Westminster Avenue

cc:

Maria Krepelka, BoS Administrator

Adam Chapdelaine, Town Manager

Jennifer Rothenberg (chair) and Leslie Mayer, Arlington Park and Recreation Commission

Nathaniel Stevens (chair) and David White and Corey Beckwith, Arlington Conservation Commission

Jennifer Ryan (president), Arlington Land Trust

Laura Weiner (interim director), Arlington Planning and Community Development

Ann LeRoy (chair), Arlington Open Space Committee

Doug Helm, Town Counsel

**From:** Gene Diaz <diaz.gene@gmail.com>  
**To:** mkrepelka@town.arlington.ma.us  
**Date:** 03/04/2016 02:50 PM  
**Subject:** Mt Gilboa property concern

---

Dear Marie,

I am writing to the Board of Selectmen with a concern about a warrant article to be discussed on March 21st. The article put forth by John Belskis seeks transfer of a property at the end of the street where I live, Crescent Hill Avenue, to Arlington Housing Authority. The house now resides on the Mt Gilboa conservation land and the Conservation Commission has recently voted to not support the article and the transfer it requests. As a resident of the Mt Gilboa neighborhood I strongly urge the Board of Selectmen to support those of us in the neighborhood that want to maintain the current status of the conservation land and the house and property within it. So many of us in this neighborhood came here because of this and the other beautiful conservation areas that surround us (Arlington Reservoir, Arlington Great Meadows, Whipple Hill), and we highly value this open space that makes Arlington such a wonderful place to live.

Thank you for your kind consideration of this concern.

Gene Diaz  
79 Crescent Hill Avenue  
Arlington, MA 02474

**From:** Ann LeRoyer <annleroyer12@gmail.com>  
**To:** Nathaniel Stevens <stevensnathaniel11@gmail.com>  
**Cc:** mkrepelka@town.arlington.ma.us, AdamChap <achapdelaine@town.arlington.ma.us>, Douglas Heim <dheim@town.arlington.ma.us>  
**Date:** 03/07/2016 02:53 PM  
**Subject:** Re: Arl. Conservation Commission - Warrant Article 30

---

Nathaniel, thank you for including me and the Open Space Committee in this correspondence.

On behalf of the committee, I am submitting the attached letter in support of the Conservation Commission motion to oppose Warrant Article 30.

Thank you to the Board of Selectmen for consideration of these letters.

Ann LeRoyer, Chair  
Open Space Committee

On Sun, Mar 6, 2016 at 8:18 PM, Nathaniel Stevens  
<[stevensnathaniel11@gmail.com](mailto:stevensnathaniel11@gmail.com)> wrote:

Dear Marie,

I hope this message finds you well.

Please find attached a letter to the Board of Selectmen from the Conservation Commission relaying its opposition to Warrant Article 30.

Thanks,

Nathaniel Stevens, Chair  
Arlington Conservation Commission

**Attachments:**

File: [OSC letter Re  
Warrant Article  
30.docx](#)

Size: 48k Content Type: application/vnd.openxmlformats-officedocument.wordprocessingml.document



## Open Space Committee

March 7, 2016  
Kevin F. Greeley, Chair  
Board of Selectmen  
Town of Arlington  
720 Massachusetts Avenue  
Arlington, MA 02476

Dear Mr. Greeley and Members of the Board,

On behalf of the Open Space Committee, I would like to support the recent motion by the Conservation Commission to oppose Warrant Article 30 and to maintain permanent protection of all 10.7 acres of conservation land at Mt. Gilboa. We encourage the Board of Selectmen to vote no action on Warrant Article 30, which proposes to transfer a portion of the land to the Arlington Housing Authority.

While our committee also supports the provision of additional affordable housing in Arlington, this property is an inappropriate location for such a use.

The Town's current 2015-2022 Open Space and Recreation Plan specifically states among its goals to "protect, maintain, and enhance existing open spaces, including watersheds, waterbodies, and natural areas; parks, playgrounds and outdoor recreational facilities; and historic sites and cultural landscapes." Mt. Gilboa represents both a natural area and a cultural landscape, and it is included within the Mt. Gilboa Historic District.

The land is also protected under the state's Article 97, excerpted in part:

"It is the policy of EEA and its agencies to protect, preserve and enhance all open space areas covered by Article 97 of the Articles of Amendment to the Constitution of the Commonwealth of Massachusetts. Accordingly, as a general rule, EEA and its agencies shall not sell, transfer, lease, relinquish, release, alienate, or change the control or use of any right or interest of the Commonwealth in and to Article 97 land. The goal of this policy is to ensure no net loss of Article 97 lands under the ownership and control of the Commonwealth and its political subdivisions."

Thank you for your consideration of this Conservation Commission motion and of all the implications involved in any proposed transfer of currently protected open space into an incompatible use.

Sincerely,

A handwritten signature in cursive script, reading "Ann LeRoyer".

Ann LeRoyer, Chair  
Open Space Committee

Cc: Nathaniel Stevens, Chair, Conservation Commission  
Adam Chapdelaine, Town Manager  
Douglas Heim, Town Counsel

**From:** Deborah K Fitzgerald <dkfitz@mit.edu>  
"dunster@dandunn.org" <dunster@dandunn.org>, Joe Curro <jcurro@alumni.tufts.edu>, Diane Mahon  
**To:** <dianemahon@verizon.net>, "smbyrne1987@gmail.com" <smbyrne1987@gmail.com>,  
"greeleycom@aol.com" <greeleycom@aol.com>  
**Cc:** "mkrepelka@town.arlington.ma.us" <mkrepelka@town.arlington.ma.us>, "Eric Sealine"  
<esealine@mac.com>  
**Date:** 03/19/2016 11:57 AM  
**Subject:** Mt. Gilboa

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Dear Arlington Selectmen,

My husband Eric Sealine and I have lived at 11 Westminster Avenue for nearly 20 years. As avid outdoor enthusiasts, and as people whose house *front* faces a fairly noisy intersection as well as an unsightly tangle of electrical and telephone wires, Mt. Gilboa means a lot to us. We were extremely concerned this week when we saw that someone hopes to transfer ownership from the Town to the Housing Authority, presumably to convert the house there to affordable housing. We are strongly opposed to this idea and urge you to oppose it too.

We fully support the efforts in Arlington to create more affordable housing. We have friends and family who are getting priced out of the real estate market in the area and realize that every town around here has to work harder to create viable options for people. We get that.

However, Arlington has very little public open land, and what does exist should continue to be protected against any kind of development. Why? I would actually argue on principle that every town needs such land as a haven for wildlife and plants, as a quiet and open place to walk and enjoy nature, as a visual and sensory buffer on our crowded lives. Further, development only goes one way. Once land is developed, its status as open and public will not be returned. As a historian of agriculture and environment, I can say that, historically, trends have favored developers far more than conservationists, and to the great detriment of diversified landscapes and cityscapes. Once converted to developments, those lands do not return to nature, ever.

Finally, as stewards of Arlington's lands, I hope that you will see the long term importance of keeping a healthy and diverse balance of land uses for future residents as well as those of us who love Mt. Gilboa. It would be very easy for Arlington to slowly and unintentionally become just another dull suburb of Cambridge and Boston, without distinction or living history. Nature sites like Mt. Gilboa, the bike path, Menotomy Rocks, and many other small bits of land are key to making Arlington the wonderful and interesting community it is. Please take a long view of the town's smart use of land going forward as you deliberate on the Mt. Gilboa question.

Thank you, and best wishes,  
Deborah

Prof. Deborah Fitzgerald  
Program in Science, Technology, and Society  
MIT, 77 Massachusetts Avenue  
Bldg. E51-296A  
Cambridge, MA 02139

[dkfitz@mit.edu](mailto:dkfitz@mit.edu)

Michael Rademacher, P.E.  
Director of Public Works

W.A. #59: Resolution/Handicap Parking

The COD is proposing that the Town endorse a resolution to provide between 5%-10% of all parking in Business Districts to be Handicap Designated. Providing this number of spaces will be challenging and will require significant outreach to the business community. That said, the State is currently reviewing a proposal which would make it a law that 5% of all on street parking be HP assessable. Having this discussion now may better prepare the Town to comply with the 5% law if enacted.

To: Board of Selectmen, Town of Arlington, MA  
From: Disability Commission of Arlington  
Date: Wednesday 16 March 2016  
Re: Warrant Article #59, Resolution Handicap Parking (HP)

The advance documents for the Monday 21 March hearing on this WA #59 are attached, including the Resolution (draft) below (the Moderator, John Leone, has already reviewed it).

- Handicap Parking (HP) Questions and Answers (includes stats, etc.)
- HP Policy Procedures Placement (includes Placement info with specific examples)
- Vision2020 survey 2015 Disability Commission page
- Announcement (was published in March in the Arlington Advocate and Arlington Email List)

Thank you for your time and attention to this important issue.

#### Resolution Draft:

Given that Title II of the ADA does require that State and Municipalities must make all their programs and services accessible, and on-street parking is considered a public service, thus some number of accessible parking spaces are required to be accessible. Yet there is currently no precise number specified.

Given that the Town of Arlington should visibly be a community that welcomes diversity, including people with disabilities,

Given that U.S. Census figures, Vision 2020 Survey results, and Registry of Motor Vehicles statistics all verify a substantial (and growing) need for handicapped parking access in the Town of Arlington,

Given that demographic projections indicate that the residents of Arlington and surrounding communities will continue to need public handicapped parking in order to access the many retail and service establishments located in Arlington,

Therefore, so as to facilitate access for people with disabilities, the Town of Arlington embraces, supports and encourages the inclusion and designation of at least five percent (5%), and no more than ten percent (10%) overall, handicapped parking spaces in any on-street public parking located in commercial districts throughout the Massachusetts Avenue and Broadway business corridors, which encompasses Business Districts B1,2,3,4,5.

# Questions & Answers for Handicap Parking (HP) Warrant Article

## Q1. Why 5-10% of Parking Spaces? Isn't that a lot?

Just under **10%** of licensed drivers in MA have handicap parking (HP) placards/plates. There are ~35,000 cars registered in Arlington, and ~2,400 active HP placards as of Jan 2015, so **6.9%** of the cars. Each year, Arlington adds approximately 200 new permanent placards, 200+ renewals, and 100+ temporaries

U.S. Census Bureau 2013 estimate for ambulatory disabilities is 7.1% of total population, Massachusetts **6.2%**.  
U.S. Census AFF ACS 2014: Of Arlington residents 65 years and older, **16%** with an ambulatory difficulty.

## Q2. How many (non-residential) HP spaces does Arlington have now?

Counting in the general area of the business districts of Arlington (almost all of Mass. Ave, plus some side streets, but only including 2 blocks of Broadway), there are ~1,000 on-street public parking spaces, of which **23 are on-street HP (2.3%)**. If parking seems scarce for you when only 1 in 35 cars can find a parking space in the business corridor sections, imagine that you are a person with a handicap placard and only 1 in 100 can park.

**East Arlington** (after MAC Project) = 212, of which **4 are HP (2%)**.

**Arlington Ctr** (2 Parking Studies) = ~500 on-street, of which **11 are HP (2.2%)**.

**Arlgtn Hghts** (Whole Foods to TJoes) = ~300 on-street, of which **8 are HP (2.7%)**.

*"Realistically, sometimes I just go home without stopping in those [Arlington] shops because I can't park close enough."* - J, Somerville.

Vision 2020 surveys also confirmed the current scarcity of HP spaces in Arlington:

Vision2020 survey in 2012: "As you think about living in Arlington, how do you experience the following?" For "handicap accessibility", **27%** (1,000+ respondents) said it is "often or sometimes an issue". (Of course, the people who answered "Not an Issue" probably weren't handicapped.)

Vision2020 survey 2015: "If any members of your household used handicapped accessible parking in Arlington in the past year, how often could accessible parking be found in different areas?" Answer: for street or parking lots in each neighborhood (East Arlington, Arlington Ctr, Arlington Heights), **27-31% answered Never**.

## Q3. I thought there were already ADA laws about this. Why don't we follow them?

At this time, neither the 1991 nor the 2010 Americans with Disabilities Act Design Standards (ADA Standards) nor the Massachusetts Architectural Access Board (MAAB) requires a specific number of accessible parking spaces on Public Ways. However, Title II of the ADA does require that State and Municipalities must make all their programs and services accessible. Since on-street parking is considered a public service, some number of public parking spaces are required to be accessible. But no explicit percentage or number is specified. Eventually, the Department of Justice or the MAAB will amend the regulations. In the meantime, given the demographics of aging in Arlington and surrounding communities, we should have **a reasonable, specific goal for accessible parking spaces in business districts**.

#### Q4. OK, so what are other towns in Massachusetts doing about this?

As with many regulations in Massachusetts, each town decides. Currently, most of the nearby towns don't have a specified percentage of public on-street HP spaces in business districts or even an accurate tally of HP spaces. Most towns designate HP spaces in business districts by individual request, as they do for residential requests. When the Massachusetts Highway Department manages a project (such as the recent Mass. Ave. in East Arlington renovation), *"such curbside allocation ultimately falls to the municipality."*

#### Q5. But isn't there a lot of fraud with people who don't deserve HP placards using them anyway?

In a 3 ½ year period, the MA RMV issued only 899 citations (out of 400,000+ placards, so 0.02%) for HP misuse. As the MA Inspector General says, the *"incentive for misuse is high in Boston, where parking in garages can cost commuters more than \$6,000 annually and buying a deeded parking space can cost more than \$100,000."* However, that is not the case in Arlington. **People without HP placards parking in HP spaces is much more prevalent:** during a ten-day period at the Burlington Mall (Dec 2014), police issued 154 disabled parking violation tickets and 15 tickets for the misuse of a HP placard. The medical conditions that may qualify for HP status include: unable to walk 200 feet without assistance/pausing to rest; legally blind; chronic lung disease/asthma; cardiovascular disease; arthritis. Because there is some fraud, we need even more HP spaces so that legitimate HP users can find a space.

#### Q6. Why do we need more HP spaces when I always see empty HP spaces?

Just like a non-HP parking space, HP spaces are not going to be occupied 100% of the time. However, when a blue-painted HP space is empty, it is very noticeable. As you drive along, you probably don't see the HP spaces that have a car legally parked. Also, most people who do have an HP placard will leave the HP space open for "someone who needs it more" if they can park close enough in a non-HP space, so **HP spaces are usually the last spaces filled**. Further, as the V2020 stats indicate, HP spaces is an *"if you build it, they will come"* situation. If Arlington visibly becomes a town that welcomes people with disabilities (residents and visitors), so that there is an adequate supply of HP spaces, then they will come to access Arlington's retail, restaurants, and services. *"Some members report having to leave to go elsewhere to have lunch or shop because they could not find [HP] parking. We strongly support this very fair and reasonable request ..."* – C. Steinberg, U.S. Pain Foundation local chapter leader.

#### Q7. Where would these HP spaces be?

This Warrant Article is **only applicable to parking spaces in the business districts** of Arlington, along the commercial corridors of Mass. Ave and Broadway, not residential streets. Some HP spaces will be added; some current HP spaces may also be moved. **The goal is an adequate number of HP spaces in optimal places.** There are many factors that affect placement of HP spaces, such as nearness to curb cuts, and whether a handicap lift can lower completely without problems. *"... making it possible to get into/out of a car, onto/off of the sidewalk, and possible for someone with a walker or wheelchair to walk on the sidewalk between the street and those new big, space-eating planters."* – M., East Arlington.

#### Q8. What's the proposed timeline for these new spaces?

In June, after Town Meeting, members of the Disability Commission will make a ground-level tour of the 3 business districts (East Arlington, Arlington Center, Arlington Heights) to make sure that the parking map is accurate, and the proposed HP spaces will work. The Board of Selectman has the final approval. The DPW would be responsible for implementing the plan. Once the HP spaces are signposted, the GIS Director will upload the map changes to the Arlington town website. If possible, the map will be distributed at Town Day in September.

**POLICY** (only applies to public parking in business districts).

Residential HP space requests still handled individually by Board of Selectmen (BOS).

Q. How many HP spaces?

A minimum of 5-10% of on-street parking in business districts should be HP parking spaces. (i.e., if 100 on-street spaces, at least 5 of those spaces should be HP spaces). More where necessary (density, town hall + library, or medical, or ...).

Q. When does Disability Commission start process of adding/moving HP spaces?

- Request from business or residents.
- Whenever there is a substantial change to on-street parking, including new paving/stripping, etc.
- Every 3-5 years, gather statistics from U.S. Census, RMV, Town Treasurer, and review/audit.

**PROCEDURE** (This is a one-time project, to be done this year.)

The goal is an adequate number of HP spaces in the optimal places.

1. Make accurate count and map of all current HP parking spaces (on-street, off-street, public, private).
2. Place new/moved HP spaces on map (using placement criteria below).
3. Review by Board of Selectmen, DPW, Police, Arlington Parking Implementation and Governance Committee, Arlington Chamber of Commerce (or rep), Arlington TAC, Massachusetts Office of Disability. (simultaneous).
4. Consult/notify businesses where proposed HP spaces will be.
5. View potential spaces in person, just to be sure all factors are OK. Maybe with people actually using scooter/wheelchair/walker.
6. Present final list and map of proposed HP spaces (including current spaces to be moved) to BOS. BOS is final decision maker (they are Parking Commissioners).
7. If BOS agrees, send list and map to DPW for implementation. Note: Minimum marking is the legal blue and white sign, with the correct legal language (can also specify fine). Also paint curb and pavement blue, if possible.
8. Follow-up after DPW implementation, make sure spaces are OK.
9. Collaborate with Planning Department (Adam Kurowski, GIS) to update online parking map.
10. Collaborate with Chamber of Commerce to develop postcard/flyer that stores, library, etc. could pass out that shows all HP spaces, all other parking spaces and parking lots, too (to re-distribute usage). Possibly distribute postcard/flyer at Town Day in September (maybe this could be funded by Arlington DAC Fund)? Possibly distribute postcard/flyer once with tax bills?

**PLACEMENT:** What are criteria for choosing placement of HP spaces?

How far is the nearest HP parking space (on-street vs. off-street, public vs. private)?

Ex. There are currently zero (0) on-street HP spaces between 214 Mass. Ave. (Continental Salon) and #352 (Sabzi restaurant), which is ½ mile. (There are only 4 private HP spaces for Walgreens, set back from the street.) Therefore, we recommend adding 3-4 on-street HP spaces in that distance, at: #240 Mass Ave (Post Office); opposite Harlow St, #292 Mass Ave (Funeral home); Linwood Circle.

How close is the nearest curb cut (ADA-compliant pedestrian ramp)? These are generally at each end of a strip of parking spaces, and at pedestrian bumpouts.

Ex. The HP space to service #908-918 (Regina's, Magic Bites Bakery, Blue Ribbon BBQ, etc.) could be located on either side of the Highland Ave intersection, because there are curb cuts on both sides.

How close are the nearest ADA-accessible building entrances/exits?

Ex. In Brattle Square, there is a parking lot behind the building for Andrina's Pizza, Sanford Camera, etc. However, the only rear entrance has 2 high steps (into the back of A & A deli). So, rather than requesting an HP space in the rear parking lot, 1 on-street HP space should be added in front.

What businesses/offices are nearby? Are their customers more likely to be disabled/have HP placards? Any take-out customers? If so, how many/how often? Delivery vehicle/s? If so, where is it typically parked?

Ex. #820-830 Mass Ave (Marchelle Coiffures, Charlene's Barber Shop, Falcon Graphics, BodyTune, Anderson's Florists). No restaurants, no takeout. Florist has a delivery van, typically parked on private property, beside store. Therefore, HP space at #830 will not interfere with Anderson's delivery service.

Avoid making the HP space the last space before a bumpout (snowplows inevitably collect and pile snow in the last parking space before a bumpout, making those spaces inaccessible).

Ex. Of the current four (4) HP spaces replaced in the Mass Ave Corridor Project in East Arlington, three (3) spaces are located as the last space before the bumpout, and should be moved.

Where possible, HP spaces should be placed at the end/corner of each set of parking spaces and/or next to driveways, bus stops, etc., for several reasons:

- If the HP space is contiguous to a non-space (driveway/bus stop/etc.), even if the one neighboring space is parked badly, the HP space can probably still be used.
- cuts down on pole clutter (because, for example, one pole can carry both a HP sign pointing right and a bus stop or no parking here to corner sign pointing left). Ex. Corner of Peg Spengler Way
- when the HP space is empty, it: gives better sight lines for cornering, exit/enter driveways; serves as an informal loading/dropoff zone for non-HP vehicles; extends bus stops (some bus stops in Arlington are still under the minimum number of feet).

Note that HP spaces should not be under overhanging branches/poles, etc. that would interfere with height of HP van and/or deployment of wheelchair lift. Likewise, handicap lift must be able to lower completely (or walker able to be used) without problems (no street furniture, no planters, curb must be correct height).

Ex. There is currently a HP space for #177- #201 (Ristorante Olivio to the Fox Library). It is located before a bumpout, so it needs to be moved. However, the other end of that set of parking spaces, while it does have a curb cut, also has bicycle racks that would impede passengers exiting/entering vehicles. The solution may be to locate the HP space around the corner on Cleveland St, in front of the Fox Library, or perhaps at #173 (Olympic Pizza).

# Vision 2020 Annual Survey Results for 2015

## Disability Commission

We want to understand the needs of our residents so we can seek more targeted solutions. Questions about disabilities were last asked in the 2005 Annual Survey. Capturing information on the types of disabilities our residents manage provides a baseline for future surveys. Comparing 2005 to 2015, we see a slight increase in households that report having members with a disability – from 15% to 21%.

The %'s shown on this page represent the % of total responses for each question.

If no members of your household have disabilities, please fill the bubble on this line and go to Question 4.

#		% No Disabilities	
No disabilities	No Response	No disabilities	No Response
No Disabilities	4,786	1,272	79% 21%

If you or members of your household have disabilities, please indicate which categories best describe the disabilities:  
(Fill all bubbles that apply)

	#	%		#	%
Visual Impairment	146	7%	Mental Health/Behavioral Challenge	206	10%
Hearing Impairment	252	12%	Cognitive Impairment	124	6%
Sensory Impairment	34	2%	Physical Impairment/Disability	494	23%

If any members of your household used handicapped accessible parking in Arlington in the past year, please indicate how often accessible parking could be found in the following locations.

	#					%				
	Always	Often	Usually	Never	No Opinion	Always	Often	Usually	Never	No Opinion
Town Administration Buildings	54	80	133	254	339	6%	9%	15%	30%	39%
School Buildings	39	42	72	238	450	5%	5%	9%	28%	54%
Street or Parking Lot - Center	61	66	182	244	318	7%	8%	21%	28%	37%
Street or Parking Lot - East Arlington	43	52	122	259	370	5%	6%	14%	31%	44%
Street or Parking Lot - Heights	49	64	162	232	351	6%	7%	19%	27%	41%
Recreational facilities or parks	38	56	105	219	420	5%	7%	13%	26%	50%

We would like to know if outdoor seating at restaurants in Arlington is creating challenges for residents with disabilities.

Has sidewalk seating at an Arlington restaurant obstructed you or any member of your household from easily navigating past a restaurant?

	#		% Navigating Sidewalk Seating	
	Yes	No	Yes	No
Navigating Sidewalk Seating	105	1,353	7%	93%

Have you or household members had issues with accessibility when trying to utilize outdoor seating at an Arlington restaurant?

	#		% Navigating Seating	
	Yes	No	Yes	No
Accessibility Issues Sidewalk Seating	44	1,366	3%	97%

In response to requests and complaints from persons with disabilities, and the results from the 2015 Vision2020 survey, the Disability Commission (DC) of Arlington has started a Handicapped Parking (HP) Policy and Process Subcommittee. The Commission has also sponsored Warrant Article (Resolution) #59 to Town Meeting to increase the number of designated HP parking spaces in the business districts of Arlington.

People with disabilities want to be able to access Arlington's shops, restaurants, and services. However, currently, the percentage of HP spaces is too low to accommodate the number of people with HP placards. The goal of the Subcommittee is to ensure an adequate number of HP spaces in the optimal places. In order to achieve this, the Subcommittee will be auditing the current HP spaces, and recommending changes to the Board of Selectmen.

The criteria for locating HP spaces are complex, so while adding some HP spaces, current HP spaces may also be moved. The variables include nearness to curb cuts, whether a handicap lift can lower completely without problems, lack of overhead obstacles, and so forth.

Once the map of rationalized HP spaces in business districts is complete, members of the subcommittee will be making a ground-level tour of the 3 business districts: East Arlington, Arlington Center, Arlington Heights. The dates for these tours will be announced after Town Meeting has ended, and we hope that you will join us to hear about the specific proposed changes in your area. Your experiences and opinions are welcome, and you may always send emails to the Chair of the Subcommittee, [Cynthia.deangelis@gmail.com](mailto:Cynthia.deangelis@gmail.com).

Thank you.



## **Town of Arlington, Massachusetts**

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### **Articles for Review:**

#### **Summary:**

Article 21: Bylaw Amendment/Arlington Commission on Arts and Culture Membership

Article 23: Bylaw Amendment/Electronic Distribution of Notices and Materials

Article 60: Resolution/Return of Precinct 17 to Highland Fire Station

#### **ATTACHMENTS:**

	Type	File Name	Description
▢	Reference Material	D.H._Votes_and_Comments_Re_Articles_21_and_60.docx	D.H. Final Votes & Comments W.A.#21, #60



**Town of Arlington  
Legal Department**

Douglas W. Heim  
Town Counsel

50 Pleasant Street  
Arlington, MA 02476  
Phone: 781.316.3150  
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E-mail: [dheim@town.arlington.ma.us](mailto:dheim@town.arlington.ma.us)  
Website: [www.arlingtonma.gov](http://www.arlingtonma.gov)

**MEMORANDUM**

TO: Board of Selectmen  
FROM: Douglas W. Heim  
DATE: March 18, 2016  
RE: **Votes and Comments for Articles: 21 and 60**

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I write to provide the Board the following as draft Final Votes and Comments for your consideration at the March 21, 2016 Board of Selectmen meeting regarding the previously heard, above-referenced warrant articles.

**ARTICLE 21                      BYLAW AMENDMENT/ARLINGTON COMMISSION ON  
ARTS & CULTURE MEMBERSHIP**

**VOTED:**     *That Title II, Article 8, Section 1 be and is hereby amended by striking the word “seven” and replacing it with “nine” in the first paragraph; and further, by striking the word “Six” and replacing it with “Eight” in the second paragraph of Section 1 so as to read in relevant parts as follows:*

**ARTICLE 8: ARLINGTON COMMISSION ON ARTS AND CULTURE**

***Section 1. Establishment of Arlington Commission on Arts and Culture***

***There is hereby established an Arlington Commission on Arts and Culture, which shall consist of ~~seven~~ nine members all of whom shall be residents of the Town.***

***~~Six~~ Eight members, one of whom shall be a member of the Vision 2020 Culture and Recreation Task Group, shall be appointed by the Town Manager subject to the approval of the Board of Selectmen and one member shall be appointed by the School Committee.***

**(5-0)**

**COMMENT:** The Board of Selectmen supports ACAC's request to amend its authorizing bylaw to provide for additional members appointed by the Town Manager, particularly as they further efforts to obtain a Cultural District designation for Arlington. ACAC reports that that the requested additional members would render its everyday workload and long-range plans more manageable and provide the benefit of additional perspectives and insights. We respectfully urge Town Meeting support these endeavors through the proposed motion.

**ARTICLE 60                      RESOLUTION/RETURN OF PRECINCT 17 TO HIGHLAND  
FIRE STATION**

**VOTED:**        **That no action be taken under Article 60.**

**(5-0)**

**COMMENT:** The Board of Selectmen recognizes and appreciates the passion with which the proponent has advocated for the instant resolution. However, overall the resolution is not supported by the record before us. Voter turnout has not been adversely impacted by the change in polling locations; use of the fire station for polling was discontinued because the Commonwealth advised the Town of accessibility issues for voters; and there is at least some concern by the Fire Department about the efficacy and general suitability of using a working fire station as polling location. Determination of voting locations is explicitly vested in the Board of Selectmen under G.L. c. 54 sec. 24. While this article presents a resolution and therefore is non-binding, given the discretion vested in the Board and more importantly, the facts as we understand them, the Board does not believe the resolution is productive. The Board has committed to examining whether a different, feasible polling location would better suit Precinct 17 than the Stratton School, but are confident the Highland Fire Station is not such an option. Thus, we respectfully recommend no action under this article.



## Town of Arlington, Massachusetts

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**Request 'No Parking Here to Corner' Sign at Intersection of Massachusetts Avenue and Willow Court**

**Summary:**

Willow Court Resident

**ATTACHMENTS:**

Type	File Name	Description
▣ Reference Material	Willow_Court_CR.pdf	E-mail with pictures

Date: Thu, Feb 25, 2016 at 9:39 AM

Subject: Request for Street Sign

To: <[smbyrnel1987@gmail.com](mailto:smbyrnel1987@gmail.com)>, <[jcurro@alumni.tufts.edu](mailto:jcurro@alumni.tufts.edu)>,  
<[dunster@dandunn.org](mailto:dunster@dandunn.org)>, <[Greeleycom@aol.com](mailto:Greeleycom@aol.com)>, <[dianemahon@verizon.net](mailto:dianemahon@verizon.net)>

Hello,

I moved to Arlington over the summer, and I am very happy to now call it home. I do have one request that I feel will make the community a much safer place to live. Please install a "No parking from here to corner" where Mass ave intersects with Willow Ct. I moved to Willow Ct. over the summer and already have seen some accidents here. When exiting Willow Ct on to Mass Ave, It is very hard to see on-coming traffic, as cars are usually parked too close to Willow Ct. blocking the view of on-coming traffic. Installing a no parking from here to corner sign would only loose one parking space, but greatly increase safety for people exiting willow ct. There seems to be plenty of parking in this area - so loosing one parking space would have a nominal impact on the business here. There is also a day care, with many cars entering and exiting throughout the day with cars full of kids along with heavy foot traffic. Please see the attached map for proposed location of this sign. Every time I pull out of Willow Ct. I am holding my breath that I do not get hit by an oncoming car that is near-impossible to see. Please consider this for the safety of our community. Thank you for making Arlington a fantastic place to call home. If there is anything you need from me to help make this happen please let me know.

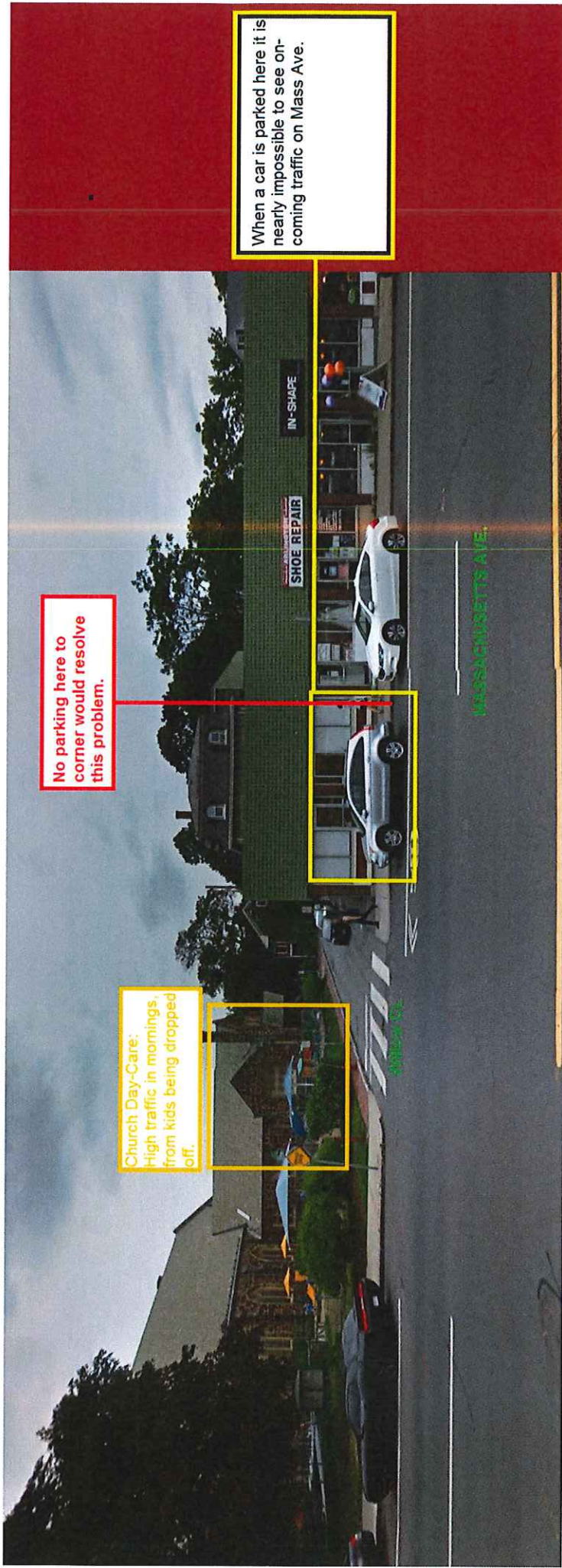
Please see the attached maps indicating the location I am talking about.

And again, if there is anything I can do to facilitate this, please let me know.

Sincerely,



When a car is parked here, it blocks the view of on-coming traffic on Mass. Ave. Please install a No Parking from here to corner to prevent cars from parking here. This would allow drivers exiting from Willow Ct. to see on-coming traffic.



No parking here to corner would resolve this problem.

Church Day-Care:  
High traffic in mornings,  
from kids being dropped  
off.

When a car is parked here it is nearly impossible to see oncoming traffic on Mass Ave.



## **Town of Arlington, Massachusetts**

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### **FY2016 CDBG Allocation**

#### **Summary:**

Harriet Tregoning, US Department of Housing and Urban Development

#### **ATTACHMENTS:**

Type	File Name	Description
▣ Reference Material	Tregoning_CR.pdf	Letter from HUD



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-7000

OFFICE OF THE ASSISTANT SECRETARY FOR  
COMMUNITY PLANNING AND DEVELOPMENT

RECEIVED  
SELECTMEN'S OFFICE  
ARLINGTON, MA 02476

2016 MAR 15 PM 1:14

February 16, 2016

Mr. Kevin Greeley  
Chairperson of Arlington  
730 Massachusetts Ave  
Arlington, MA 02476-4908

Dear Chairperson Greeley:

I am pleased to inform you of your jurisdiction's Fiscal Year (FY) 2016 allocations for the Office of Community Planning and Development's (CPD) formula programs, which provide funding for housing, community and economic development activities, and assistance for low and moderate-income persons and special populations across the country. President Obama signed Public Law 114-113 on December 18, 2015, which includes FY 2016 funding for these programs. Your jurisdiction's FY 2016 available amounts are:

Community Development Block Grant (CDBG)	\$1,033,162
HOME Investment Partnerships (HOME)	\$ 0
Housing Opportunities for Persons with AIDS (HOPWA)	\$ 0
Emergency Solutions Grants (ESG)	\$ 0

This letter highlights several important points related to these programs. First, Secretary Julián Castro is committed to making HUD the "Department of Opportunity" and has established a number of initiatives intended to achieve that goal. In 2015, we celebrated the 50<sup>th</sup> anniversary of the Department's establishment, and these initiatives build on HUD's mission to promote homeownership, support community development, and increase access to affordable housing free from discrimination. The Department is working hard with grantees on these key goals and urges you to review the entire plan at: <http://portal.hud.gov/hudportal/HUD?src=/hudvision>. In an era when the nation's severe shortage of affordable rental housing creates substantial housing instability—contributing to homelessness, family mobility and unequal educational attainment—I am particularly interested in working with grantees to increase affordable housing production through our CPD formula programs.

Second, HUD recommends that grantees effectively plan and implement programs that leverage these critical Federal financial resources to achieve the greatest possible return for the communities and individuals they are intended to assist.


- HUD urges grantees to consider using CDBG funds, to the extent possible, to support investments in predevelopment activities for infrastructure and public facilities activities that can provide multiple benefits for communities.
- HUD has created a Renewable Energy Toolkit specifically tailored to CPD grantees. To the extent that grantees are interested in using funds for renewable energy projects, please feel free to access that toolkit online at [www.hudexchange.info](http://www.hudexchange.info).
- If you would like assistance from CPD in redesigning, prioritizing or targeting your programs,

either you or the head of the agency that administers your program may request assistance through your local CPD Director.

Third, CPD is asking grantees to renew their focus on administration and management of these programs as part of an effort to ensure effective use of the funds. Throughout 2016, CPD and HUD's Office of the Inspector General expect to issue a range of guidance that will highlight particular areas where grantees commonly stumble. I urge grantees to actively review their policies and procedures governing these programs and to strengthen management practices, particularly with regard to recordkeeping, in order to avoid problems and risk this vital funding. This focus on administration is particularly critical because the Integrated Disbursement and Information System (IDIS), which is HUD's financial and data system for managing these formula programs, will no longer commit and disburse grant funds on a first-in first-out (FIFO) basis beginning with the FY 2015 grants. All FY 2015 and future grants will be committed and disbursed on a grant specific basis.

The Office of Community Planning and Development is looking forward to working with you to promote simple steps that will enhance the viability and performance of these critical programs and successfully meet the challenges that our communities face. Please contact your local CPD office if you or your staff has any questions or comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Harriet Tregoning", with a stylized flourish at the end.

Harriet Tregoning  
Principal Deputy Assistant Secretary



## **Town of Arlington, Massachusetts**

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### **Minuteman Regional School Committee Vote re: Section 16(d) of Chapter 71**

#### **Summary:**

David C. Horton, Secretary, Minuteman District School Committee

#### **ATTACHMENTS:**

Type	File Name	Description
▢ Reference Material	Minuteman_CR.pdf	Letter from David Horton, Minuteman School Committee



# MINUTEMAN

A REVOLUTION IN LEARNING

March 16, 2016

Kevin F. Greeley, Chair, Board of Selectmen  
Town of Arlington  
869 Mass. Ave.  
Arlington, MA 02476

Dear Mr. Greeley:

As indicated below, I am writing to inform the Boards of Selectmen of all of the member towns of the Minuteman Regional Vocational School District (hereinafter "the District") that the Minuteman Regional School Committee, at a meeting held on March 15, 2016, took the following vote pursuant to the agreement establishing the Minuteman Regional Vocational Technical School District and the provisions of Section 16(d) of Chapter 71 of the General Laws:

VOTE: That the Minuteman Regional Vocational Technical School District (the "District") hereby appropriates the amount of \$144,922,478 for the purpose of paying costs of designing, constructing and originally equipping a new district school, to be located at 758 Marrett Road, Lexington, Massachusetts, and for the payment of all other costs incidental and related thereto (the "Project"), which school facility shall have an anticipated useful life as an educational facility for the instruction of school children of at least 50 years, and for which the District may be eligible for a school construction grant from the Massachusetts School Building Authority ("MSBA"), said amount to be expended at the direction of the School Building Committee. To meet this appropriation, the District is authorized to borrow said amount, under and pursuant to Chapter 71, Section 16(d) of the General Laws, and the District Agreement, as amended, or pursuant to any other enabling authority. The District acknowledges that the MSBA's grant program is a non-entitlement, discretionary program based on need as determined by the MSBA, and any Project costs the District incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the District and its member municipalities; provided further that any grant that the District may receive from the MSBA shall not exceed the lesser of (i) forty four and three quarters percent (44.75%) of eligible, approved Project costs, as determined by the MSBA, or (ii) the total maximum grant amount determined by the MSBA, and that the amount of borrowing authorized pursuant to this vote shall be reduced by any grant amount set forth in the Project Funding Agreement that may be executed between the District and the MSBA.

FURTHER VOTED: That within seven (7) days from the date on which this vote is adopted, the Secretary be and hereby is instructed to notify the Boards of Selectmen of each member town of the District as to the amount and general purposes of the debt herein authorized, as required by the District Agreement and by Chapter 71, Section 16(d) of the General Laws. The secretary is further instructed to send the draft warrant article language to the 16 Boards of Selectmen.

Please be advised that member towns **need not take any further action regarding the School Committee vote**. Your Board may choose to simply accept the School's Committee's decision to incur debt for this project. However, your Board may choose to bring this issue to Town Meeting if you believe your town may wish to indicate its disapproval of the School Committee's decision. If no member town votes its disapproval within 60 days of the School Committee vote, the debt will be deemed approved. No further votes in favor of the decision to incur the debt are actually required under the terms of Section 16(d) of M.G.L Chapter 71. The School Committee vote is binding on the District, unless at least one member town votes to disapprove within

60 days. We recognize that most Boards will choose to hear from Town Meeting. In the event you exercise this option, we have prepared a draft motion that we hope will be helpful to you.

Please contact Superintendent Ed Bouquillon at [e.bouquillon@minuteman.org](mailto:e.bouquillon@minuteman.org) or ext. 7301, should you have any procedural questions or need further information.

Sincerely,



David C. Horton, Secretary  
Minuteman District School Committee

cc: Adam Chapdelaine, Town Administrator

Attachment: Suggested Article and Motion

**Minuteman Regional Vocational School District**  
**Suggested Forms of Article and Motion for Debt Issue Approval**

**Article:** To see if the Town will approve the amount of \$144,922,478 for the purpose of paying costs of designing, constructing and originally equipping a new district school, to be located at 758 Marrett Road, Lexington, Massachusetts, and for the payment of all other costs incidental and related thereto (the "Project"), which school facility shall have an anticipated useful life as an educational facility for the instruction of school children of at least 50 years, and for which the District may be eligible for a school construction grant from the Massachusetts School Building Authority ("MSBA"), said amount to be expended at the direction of the School Building Committee. To meet this appropriation, the District is authorized to borrow said amount, under and pursuant to Chapter 71, Section 16(d) of the General Laws, and the District Agreement, as amended, or pursuant to any other enabling authority. The District acknowledges that the MSBA's grant program is a non-entitlement, discretionary program based on need as determined by the MSBA, and any Project costs the District incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the District and its member municipalities; provided further that any grant that the District may receive from the MSBA shall not exceed the lesser of (i) forty four and three quarters percent (44.75%) of eligible, approved Project costs, as determined by the MSBA, or (ii) the total maximum grant amount determined by the MSBA, and that the amount of borrowing authorized pursuant to this vote shall be reduced by any grant amount set forth in the Project Funding Agreement that may be executed between the District and the MSBA.

**Motion:** That the Town hereby approves the \$144,922,478 for the purpose of paying costs of designing, constructing and originally equipping a new district school, to be located at 758 Marrett Road, Lexington, Massachusetts, and for the payment of all other costs incidental and related thereto (the "Project"), which school facility shall have an anticipated useful life as an educational facility for the instruction of school children of at least 50 years, and for which the District may be eligible for a school construction grant from the Massachusetts School Building Authority ("MSBA"), said amount to be expended at the direction of the School Building Committee. To meet this appropriation, the District is authorized to borrow said amount, under and pursuant to Chapter 71, Section 16(d) of the General Laws, and the District Agreement, as amended, or pursuant to any other enabling authority. The District acknowledges that the MSBA's grant program is a non-entitlement, discretionary program based on need as determined by the MSBA, and any Project costs the District incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the District and its member municipalities; provided further that any grant that the District may receive from the MSBA shall not exceed the lesser of (i) forty four and three quarters percent (44.75%) of eligible, approved Project costs, as determined by the MSBA, or (ii) the total maximum grant amount determined by the MSBA, and that the amount of borrowing authorized pursuant to this vote shall be reduced by any grant amount set forth in the Project Funding Agreement that may be executed between the District and the MSBA.